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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0340; Directorate Identifier 2014–NM–084–AD; Amendment 39–17867; AD 2014–12–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Airbus Model A310 series airplanes. This AD requires inspections of the external area of the aft cargo door sill beam for cracking, and repair if necessary. This AD was prompted by reports of fatigue cracks on the cargo door sill beam, lock fitting, and torsion box plate. We are issuing this AD to detect and correct fatigue cracking of the cargo door sill beam, lock fitting, and torsion box plate, which could result in the loss of the door locking function and, subsequently, complete loss of the cargo door in flight with the risk of rapid decompression.

DATES: This AD becomes effective July 2, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 2, 2014.

We must receive comments on this AD by August 1, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0340; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2014–0097–E, dated April 23, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Airbus Model A310 series airplanes. The MCAI states:

> During accomplishment of Maintenance Review Board Report (MRBR) task 531625–01–1 on an A300–600 aeroplane having accumulated more than 25,000 flight cycles (FC) since aeroplane first flight, multiple fatigue cracks were found on the following parts:
>
> —Aft cargo door sill beam Part Number (P/N) A53973085210
> —Lock fitting P/N A53978239002
> —Torsion box plate P/N A53973318206.
>
> Prompted by these findings, a stress analysis was performed during which it was discovered that there is no dedicated scheduled maintenance task to inspect the affected area for fatigue damage.
>
> The loss of more than one lock fitting could lead to loss of the door locking function and, subsequently, complete loss of the cargo door in flight with associated risk of rapid decompression.
>
> To address this unsafe condition, Airbus issued Alert Operators Transmission (AOT) A53W005–14 providing instructions for inspection of the affected area.
>
> For the reason described above, this [EASA] AD requires repetitive ultrasonic inspections or detailed inspections (DET) for cracking of the aft cargo door sill beam external area, or a one-time High Frequency Eddy Current (HFEC) inspection [for cracking] of the aft cargo door sill beam internal structure and, depending on findings, accomplishment of corrective action(s) [e.g. repair].
>
> This [EASA] AD is considered an interim measure and further AD action may follow.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0340.

Relevant Service Information

Airbus has issued Alert Operators Transmission A53W005–14, dated April 22, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Interim Action

We consider this AD interim action. If final action is later identified, we might consider further rulemaking then.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because fatigue cracking of the cargo door sill beam, lock fitting, and torsion box plate could result in the loss of the door locking function and subsequently, complete loss of the cargo door in flight with the risk of rapid decompression. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0340; Directorate Identifier 2014–NM–084–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 170 airplanes of U.S. registry.

We also estimate that it will take about 11 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $158,950, or $935 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2014–12–06 Airbus: Amendment 39–17867. Docket No. FAA–2014–0340; Directorate Identifier 2014–NM–084–AD.

(a) Effective Date

This AD becomes effective July 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5) of this AD, certificated in any category, all certified models, all manufacturer serial numbers on which Airbus Modification 05438 has been embodied in production, except those on which Modification 12046 has been embodied in production.

(1) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Airbus Model A300 B4–605R and B4–622R airplanes.

(3) Airbus Model A300 F4–605R and F4–622R airplanes.

(4) Airbus Model A300 C4–605R Variant F airplanes.

(5) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of fatigue cracks on the cargo door sill beam, lock fitting, and torsion box plate. We are issuing this AD to detect and correct fatigue cracking of the cargo door sill beam, lock fitting, and torsion box plate, which could result in the loss of the door locking function and subsequently, complete loss of the cargo door in flight with the risk of rapid decompression.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Repair

(1) Within the compliance time identified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD, as applicable, do an ultrasonic inspection or detailed inspection of the aft cargo door sill beam external area for cracking, in accordance with Airbus Alert Operators Transmission (AOT) A53W005–14, dated April 22, 2014. Repeat the inspection thereafter at intervals not to exceed 275 flight cycles.

(i) For airplanes that have accumulated 30,000 flight cycles or more since the airplane's first flight as of the effective date of this AD: Within 50 flight cycles after the effective date of this AD.

(ii) For airplanes that have accumulated 18,000 flight cycles or more, but less than 30,000 flight cycles since the airplane's first flight as of the effective date of this AD: Within 275 flight cycles after the effective date of this AD.

(iii) For airplanes that have accumulated less than 18,000 flight cycles since the airplane's first flight as of the effective date of this AD: Before exceeding 18,275 flight cycles since the airplane's first flight.

(2) If any crack is found during any inspection required by paragraph (g)(1) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent, or the Design Approval Holder (DAH) with EASA design organization approval).

(h) Optional Terminating Action

Accomplishment of the high frequency eddy current (HFEC) inspection for cracking in accordance with Airbus AOT A53W005–14, dated April 22, 2014, terminates the repetitive inspections required by paragraph (g)(1) of this AD for that airplane. If any cracking is found during the HFEC inspection, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA (or its delegated agent, or the DAH with EASA design organization approval).

(i) Reporting Requirement

Submit a report of the findings (both positive and negative) of the inspection required by paragraph (g)(1) of this AD to Airbus as specified in paragraph 7., ''Reporting'' of the Airbus AOT A53W005–14, dated April 22, 2014, at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD. The report must include inspection results, including no findings.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Emergency Airworthiness Directive 2014–0097–E, dated April 23, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0340.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Alert Operators Transmission A53W005–14, dated April 22, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on: June 4, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13832 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0180; Directorate Identifier 2014–CE–004–AD; Amendment 39–17869; AD 2014–12–08]

RIN 2120–AA64

Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' Sailplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2004–11–10 for Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' sailplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue damage of the welded joint between the airbrake torque tube and the airbrake control system lever located inside the fuselage. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 22, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 22, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0180; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Allstar PZL Glider, Sp. z o. o., ul. Cieszynska 325, 43–300 Bielsko-Biala, Poland; telephone: +48 33 812 50 26; fax: +48 33 812 3739; email: *techsupport@szd.com.pl;* Internet: *http://szd.com.pl/en/products/szd-50-3-puchacz.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Przedsiebiorstwo Doswiadczalno-Produkcyjne Model SZD–50–3 ''Puchacz'' airplanes. The NPRM was published in the **Federal Register** on March 25, 2014 (79 FR 16248), and proposed to supersede AD 2004–11–10, Amendment 39–13656 (69 FR 31872, June 8, 2004).

The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

> Several occurrences of airbrake torque tube failure were reported on SZD–50–3 ''Puchacz'' sailplanes. In all cases, as a result of disruption of the welded joint between torque tube and the lever, the broken torque tube detached from the lever located in the fuselage. The result of subsequent investigations identified fatigue damage, as a consequence of periodical striking load exceeding the established maximum value, to be a possible failure cause. Additionally, corrosion damage was identified at internal surface of the opened tube.
>
> This condition, if not detected and corrected, would inhibit the function of the airbrake, possibly resulting in reduced control of the sailplane.
>
> Prompted by these findings, Allstar PZL issued Service Bulletin (SB) No. BE–052/SZD–50–3/2003 to provide inspection instructions. CAO of Poland issued AD SP–0052–2003–A to require a one-time inspection of the airbrake torque tube in the area of welded joint in accordance with that SB.
>
> Since that AD was issued, Allstar PZL issued SB No. BE–062/SZD–50–3/2013 to introduce repetitive inspections and accomplishment instructions for reinforced torque tube inspections.
>
> For the reasons described above, this AD supersedes CAO of Poland AD SP–0052–2003–A and requires repetitive inspections of the airbrake torque tube and, depending on findings, replacement with a serviceable part.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0180-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 16248, March 25, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 16248, March 25, 2014).

Costs of Compliance

We estimate that this AD will affect 5 products of U.S. registry. We also estimate that it would take about 5 work-hours for the annual inspection of sailplanes equipped with the old version torque tube; 1 work-hour for the annual inspection of sailplanes equipped with the new version torque tube; and 5 work-hours for the 1,000-hour annual inspection of sailplanes equipped with the new version torque tube. The average labor rate is $85 per work-hour.

In addition, we estimate that any necessary follow-on actions would take about 5 work-hours and require parts costing $875, for a cost of $1,300 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0180; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment AD 2004–11–10, Amendment 39–13656 (69 FR 31872, June 8, 2004) and adding the following new AD:

2014–12–08 Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'': Amendment 39–17869; Docket No. FAA–2014–0180; Directorate Identifier 2014–CE–004–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 22, 2014.

(b) Affected ADs

This AD supersedes AD 2004–11–10, Amendment 39–13656 (69 FR 31872; June 8, 2004).

(c) Applicability

This AD applies to Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' sailplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue damage of the welded joint between the airbrake torque tube and the airbrake control system lever located inside the fuselage. We are issuing this AD to detect and correct fatigue damage of the airbrake torque tube and the airbrake control system lever, which may cause a malfunction of the airbrake, resulting in loss of control of the sailplane.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(6) of this AD:

(1) *For sailplanes equipped with the old version torque tube, with or without reinforced corner:* Initially within 30 days after July 22, 2014 (the effective date of this AD) and repetitively thereafter at intervals not to exceed every 12 months or 100 hours time-in-service (TIS), whichever occurs first, do a detailed inspection of the airbrake torque tube following the inspection procedures in paragraph (2)(b) in Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013.

(2) *For sailplanes equipped with the new type torque tube, with reinforced corner:* Initially within 30 days after July 22, 2014 (the effective date of this AD) and repetitively thereafter at intervals not to exceed every 12 months or 100 hours TIS, whichever occurs first, visually inspect the welded joint of the airbrake torque tube following the conditions of inspection, first bulleted item of paragraph (2)(a)(2), in Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013.

(3) *For sailplanes equipped with the new type torque tube, with reinforced corner:* During the first 1,000-hour inspection after July 22, 2014 (the effective date of this AD), and then repetitively at each scheduled 1,000-hour inspection, do a detailed inspection of the welded joint of the airbrake torque tube following the inspection procedures in paragraph (2)(b) in Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013.

(4) *For all sailplanes:* If during any inspection required by paragraph (f)(1), (f)(2), or (f)(3) of this AD any damage is found as detailed in paragraph (2)(c) of PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013, before further flight, replace the airbrake torque tube as described in the Post-inspection procedures, paragraph (2)(c), of Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013.

(5) *For all sailplanes:* Replacement of an airbrake torque tube, as required by paragraph (f)(4) of this AD, does not constitute terminating action for inspection requirements of paragraphs (f)(1), (f)(2), and (f)(3) of this AD.

(6) *For all sailplanes:* Compliance with the requirements of paragraphs (f)(1), (f)(2), or (f)(3) of this AD can be demonstrated by incorporating the applicable required inspections and follow-on corrective actions, as specified in Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013, into the approved instructions for continued airworthiness (ICA) of the maintenance program.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2014–0015, dated January 14, 2014, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0180-0002.*

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Allstar PZL Glider Sp. z o.o. Service Bulletin No. BE–062/SZD–50–3/2013 ''PUCHACZ'', Revision A, dated September 16, 2013.

(ii) Reserved.

(3) For Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' service information identified in this AD, contact Allstar PZL Glider, Sp. z o. o., ul. Cieszynska 325, 43–300 Bielsko-Biala, Poland; telephone: +48 33 812 50 26; fax: +48 33 812 3739; email: *techsupport@szd.com.pl;* Internet: *http://szd.com.pl/en/products/szd-50-3-puchacz.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on June 6, 2014.

Timothy Smyth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13839 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742, 754 and 774

[Docket No. 140121058–4058–01]

RIN 0694–AG06

Update of Short Supply Export Controls: Unprocessed Western Red Cedar, Crude Oil, and Petroleum Products

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) publishes this final rule to amend two supplements in the Export Administration Regulations (EAR), which contain lists of controlled crude oil and petroleum products (produced or derived from the Naval Petroleum Reserve (NPR)) and unprocessed western red cedar, respectively. These lists provide relevant Census Bureau Schedule B commodity numbers and associated commodity descriptions of these short supply commodities. Many of the Schedule B commodity numbers and associated commodity descriptions listed prior to publication of this rule in the two supplements are now obsolete. This rule updates the lists in the two supplements to remove obsolete descriptions and Schedule B commodity numbers, and to add relevant descriptions and Schedule B commodity numbers for these short supply commodities. This rule also clarifies the description of petroleum products in other sections of the EAR to ensure those references are current. This rule will not alter or otherwise affect BIS's current enforcement practice with respect to the EAR's controls on unprocessed western red cedar or crude oil and petroleum products.

DATES: Effective date is June 17, 2014.

FOR FURTHER INFORMATION CONTACT: Gerard Horner, Director, Office of Technology Evaluation, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–2078 or by email at *Gerard.Horner@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The ''Harmonized System Classification'' is a six-digit standardized numerical method of classifying traded products. Harmonized System numbers are used by customs authorities around the world to identify products for the application of duties and taxes. The United States has adopted the Harmonized System as the basis of both its export classification system, referred to as Schedule B, and its import classification system, called the Harmonized Tariff Schedule (HTS). The first six digits of the commodity numbers for a product listed on the HTS and the Schedule B are identical to one another with respect to descriptions and codes.

Schedule B numbers are administered and used by the U.S. Commerce Department, Census Bureau, Foreign Trade Division to collect and publish U.S. export statistics. Schedule B numbers are required to be reported in the Automated Export System (AES) for all export transactions originating in the United States. There is a Schedule B commodity number for every physical product, from paperclips to airplanes, that are exported from the United States to foreign countries. According to the introduction to the Schedule B, which provides for definitions of commonly-used terms and a guide to interpreting and using the Schedule B, the term ''headings'' refers to the article descriptions appearing in Schedule B at the four-digit level; the term ''subheading'' refers to any article description indented thereunder. A reference to ''headings'' also encompasses the subheadings indented thereunder. The Schedule B 2014 may be found at *http://www.census.gov/foreign-trade/schedules/b/2014/index.html.* There is no direct correlation between Schedule B commodity numbers and the Commerce Control List Export Control Classification Numbers (ECCNs).

The Bureau of Industry and Security (BIS) regulates the export of unprocessed western red cedar, crude oil, and petroleum products (that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR-produced or derived commodities) under the Export Administration Regulations' (EAR) short supply controls. A license is required for exports of these commodities to all destinations, including Canada.

For the convenience of exporters, BIS created Supplement No. 1 and Supplement No. 2 to part 754 in the EAR to illustrate the Schedule B commodity numbers that could apply to crude oil, petroleum products, and unprocessed western red cedar controlled under the EAR. The Schedule B numbers in Supplement No. 1 to part 754 (crude oil and petroleum products) were based on the 1994 version of the Schedule B of commodity classifications. The Schedule B numbers in Supplement No. 2 to part 754 (unprocessed western red cedar) were based on versions of the Schedule B from the 1980's. The current version applicable to all of these commodities is Schedule B 2014.

This rule updates the lists in the two supplements to remove obsolete descriptions and Schedule B commodity numbers and add relevant descriptions and Schedule B commodity numbers for these short supply commodities. This rule also clarifies the description of petroleum products in other sections of the EAR to ensure those references are current.

Supplement No. 1 to Part 754—Petroleum and Petroleum Products

Supplement No. 1 to part 754 of the EAR contains a total of 43 Schedule B numbers, two for crude oil and 41 for petroleum products. Significant modifications to Schedule B numbers have taken place over the years. After twenty years, all Schedule B numbers, except one (2804.29.0010 for ''Helium'') are now either obsolete or have undergone modifications to the commodity descriptions in the Schedule

B. Specifically, the two numbers for crude oil and 22 numbers for petroleum products are obsolete, and the modifications have been made to the commodity descriptions in 18 numbers for petroleum products. This rule updates the Schedule B numbers and commodity descriptions in Supplement No. 1 of Part 754. The descriptions are derived from the 2014 Schedule B and the AES 2014 Export Concordance (December 30, 2013) (''AES 2014 Export Concordance''), *http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt.* The AES 2014 Export Concordance includes Schedule B numbers and commodity descriptions that reflect consolidations of descriptions that appear at the subheading level in the 2014 Schedule B. The footnote that provided a source for the table has been removed, and the information that was in the footnote has been incorporated into introductory text to the Supplement.

Included in the introduction chapter to the 2014 Schedule B are rules of interpretation, which provide information on how to read and interpret the Schedule B list. Also, there are Notes at the beginning of Chapter 27 of the 2014 Schedule B that pertain specifically to products in this chapter. For example, Note 6 under the Statistical Notes states, ''In determining the relative weights of components of the mixtures provided for in subheading 2710.11.45 and 2710.19.45, naphtha and other petroleum derivatives which may be present in such mixtures as solvents shall be disregarded.'' Therefore, it is important to read the rules of interpretation and all the notes at the beginning of chapter 27 that pertain to your products in order to properly classify your product.

Supplement No. 2 to Part 754—Unprocessed Western Red Cedar

Supplement No. 2 contains three Schedule B numbers, 200.3516, 200.2820, and 202.2840, for unprocessed western red cedar. As a result of significant modifications to Schedule B numbers that have taken place over the years, these three numbers are now obsolete. Additionally, the current commodity descriptions are incomplete as they only include western red cedar logs and timber, lumber (rough and containing wane), and lumber (dressed or worked, containing wane). This rule updates the three Schedule B numbers and commodity descriptions in Supplement No. 2 of Part 754. To determine if your Western Red Cedar (WRC) product requires a license, see § 754.4 of the EAR.

This rule replaces the three obsolete Schedule B numbers of unprocessed western red cedar, and adds five new numbers, for a total of eight Schedule B numbers drawn from the Schedule B 2014. The eight numbers are divided into two groups: wood in the rough and lumber. The accompanying commodity descriptions may have terms with single quotes, which indicate that a definition may be found in the notes below the table. The descriptions in this supplement were derived from the 2014 Schedule B and the AES 2014 Export Concordance. This rule also adds definitions for three terms, 'treated,' 'lumber,' and 'rough,' that appear in commodity description listings in the Schedule B 2014, as Notes to Supplement No. 2. Including these definitions will help exporters better understand the commodity descriptions in the supplement.

If there are any discrepancies between the information in Supplement No. 2 and the information in the most current Schedule B, which is updated on an annual basis, you should use the most current Schedule B number in your Electronic Export Information filing in the Bureau of the Census's Automated Export System.

This rule also makes an administrative change to remove the Unit column in the table for Unprocessed Western Red Cedar in Supplement No. 2 to part 754 as ''Unit'' was removed from the Commerce Control List on January 6, 2014 (78 FR 61874).

Section 742.1(b)(1) CCL Based Controls; Reasons for Control Listed on the CCL not Covered by This Part; Short Supply

This rule amends § 742.1(b)(1) by adding the word ''certain'' to the description of ECCN 1C983, because only natural gas liquids and other natural gas derivatives that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities are controlled by the short supply reason for control in part 754 of the EAR. This rule also adds the word ''unprocessed'' to the description of ECCN 1C988, because only unprocessed western red cedar is controlled by the short supply reason for control in part 754 of the EAR.

Section 754.1 Introduction

This rule amends § 754.1 by revising subpart (b)(1)(iii) to remove the language ''listed in Supplement No. 2 to this part.'' This revision, which is also reflected in § 754.4, delinks the license requirement from the listings in Supplement No. 2 to part 754. This revision clarifies that exporters must consult § 754.4, not Supplement No. 2 to part 754, to determine the license requirements for unprocessed western red cedar products controlled under ECCN 1C988. Section 754.4 contains definitions of ''unprocessed'' western red cedar and other key terms that are relevant to the scope of the license requirements. The revision is consistent with the understanding that the Supplement No. 2 Schedule B listings are not exhaustive. The listings (and the Schedule B more generally) do not capture the full range of products that may meet the definition of ''unprocessed western red cedar'' for purposes of § 754.4 of the EAR.

Section 754.4 Unprocessed Western Red Cedar

This rule amends § 754.4 by revising the introductory text to paragraph (a). The introductory text to paragraph (a) is amended to remove the language ''listed in Supplement No. 2 to this part,'' consistent with the revision made to § 754.1. A new sentence is added to reference and explain the revised listings in Supplement No. 2. An editorial change is also made to put in lower case the words ''license exception'' in the last sentence of the introductory text to paragraph (a).

Supplement No. 1 to Part 774—Commerce Control List

This rule amends the heading of ECCN 1C988 by adding the word ''unprocessed'' to be more precise about the control. The reference to Supplement No. 2 to part 754 of the EAR is replaced by a reference to § 754.4 of the EAR, thereby clarifying that exporters should consult § 754.4 to determine the licensing requirements that apply to unprocessed western red cedar. The license requirement of ECCN 1C988 is based on the definitions and other information in § 754.4 of the EAR. The Related Definitions paragraph in the List of Items Controlled section of ECCN 1C988 is amended to add a reference to and description of Supplement No. 2 to part 754.

These clarifying changes do not alter or otherwise affect BIS's current practice with respect to the enforcement of the EAR's controls on unprocessed western red cedar.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by

Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under the following control numbers: 0694–0088 (Simplified Network Application Processing and Multipurpose Application Form).

This final rule would not increase public burden in a collection of information approved by OMB under control number 0694–0088, which authorizes, among other things, export license applications, because it is simply updating the Schedule B numbers and commodity descriptions for certain commodities in Supplement No. 1 of part 754 and making certain limited corrections to §§ 742.1, 754.1 and 754.4.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. The revisions made by this rule are administrative, not substantive, in nature and merely update the EAR to reflect changes to regulations referenced therein so that those references are harmonized with revisions that have been made to the Census Bureau's Schedule B 2014 publication, e.g., updating commodity descriptions, removing obsolete Schedule B Numbers, and adding new Schedule B numbers. The rule does not affect the rights and obligations of the public. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide prior notice and opportunity for public comment.

In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. As stated above, these revisions do not alter any rights or obligations, but merely correct citations and definitions set forth in the EAR so that those references are harmonized with revisions that have been made to the Bureau of the Census' Schedule B 2014 publication, e.g., updating commodity descriptions, removing obsolete Schedule B Numbers, and adding new Schedule B numbers. The revisions are necessary to facilitate public understanding of the EAR's short supply controls on unprocessed western red cedar, crude oil, and petroleum products. Accordingly, no benefit would be gained by delaying this rule's effectiveness for 30 days.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 754

Agricultural commodities, Exports, Forests and forest products, Horses, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 742, 754 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 742—[AMENDED]

■ 1. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 2. Section 742.1 is amended by revising paragraph (b)(1) to read as follows:

§ 742.1 Introduction.

* * * * *

(b) * * *

(1) *Short Supply.* ECCNs containing items subject to short supply controls (''SS'') refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (certain natural gas liquids and other natural gas derivatives); 1C984 (certain manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy); and 1C988 (Unprocessed western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane).

* * * * *

PART 754—[AMENDED]

■ 3. The authority citation for 15 CFR part 754 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 4. Section 754.1 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 754.1 Introduction.

* * * * *

(b) * * *

(1) * * *

(iii) Unprocessed western red cedar described by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane). For specific licensing requirements for these items, see § 754.4 of this part.

* * * * *

■ 5. Section 754.4 is amended by revising the introductory text to paragraph (a), to read as follows:

§ 754.4 Unprocessed western red cedar.

(a) *License requirement.* As indicated by the letters ''SS'' in the ''Reason for Control'' paragraph in the ''License Requirements'' section of ECCN 1C988 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required to all destinations, including Canada, for the export of unprocessed western red cedar covered by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane). For a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed western red cedar products subject to the license requirements of this section, see Supplement No. 2 to part 754 of the EAR. See paragraph (c) of this section for license exceptions for timber harvested from public lands in the State of Alaska, private lands, or Indian lands, and see paragraph (d) of this section for relevant definitions.

* * * * *

■ 6. Revise Supplement No. 1 to Part 754 to read as set forth below:

SUPPLEMENT NO. 1 TO PART 754—CRUDE PETROLEUM AND PETROLEUM PRODUCTS

This Supplement provides relevant Schedule B numbers and a commodity description of the items controlled by ECCNs 1C980, 1C981, 1C982, 1C983, and 1C984. The 10-digit Harmonized System-based Schedule B commodity numbers and descriptions below are drawn from *Chapter 27 of the Schedule B 2014* found at and the *AES 2014 Export Concordance* (December 30, 2013) *http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt.* If there are any discrepancies between the information in this supplement and the information in the most current Schedule B, use the most current Schedule B commodity number on your Electronic Export Information filing on the Automated Export System.

Schedule B No.	Commodity description
CRUDE OIL	
2709001000	Petroleum oils and oils obtained from bituminous minerals, crude.
2709002010	Petroleum oils and oils obtained from bituminous minerals, testing 25 degrees API or more, condensate derived wholly from natural gas, crude.
2709002090	Petroleum oils and oils obtained from bituminous minerals, testing 25 degrees API or more, crude, NESOI.
2714100000	Bituminous or oil shale and tar sands.
PETROLEUM PRODUCTS	
2707999010	Carbon black feedstock.
2710121510	Leaded gasoline.
2710121514	Unleaded gasoline, reformulated.
2710121519	Unleaded gasoline, NESOI.
2710121520	Jet fuel, naphtha-type.
2710121550	Motor fuels, NESOI.
2710121805	Motor fuel blending stock, Reformulated Blendstock for Oxygenate Blending (RBOB).
2710121890	Motor fuel blending stock, except Reformulated Blendstock for Oxygenate Blending (RBOB).
2710122500	Naphthas, except motor fuel or motor fuel blending stock.
2710124500	Light oil and preparation, mixtures of hydrocarbons containing by weight not over 50 percent of any single hydrocarbon compound, NESOI.
2710129000	Light oils and preparations obtained from bituminous minerals containing by weight 70 percent or more of petroleum oils, NESOI.
2710190605	No. 4-type fuel oils, API lt 25 degrees, having a saybolt universal viscosity at 37.8 degrees C of 45–125 seconds, with not over 500 ppm of sulfur.
2710190615	No. 4-type fuel oils under 25 degrees API having a saybolt universal viscosity at 37.8 degrees C of 45–125 seconds, having over 500 ppm sulfur.
2710190620	Heavy fuel oils under 25 degrees API having saybolt universal viscosity at 37.8 degrees C of more than 125 seconds.
2710190650	Distillate and residual fuel oils (including blended fuel oils), testing under 25 degrees API, NESOI.
2710191106	Light fuel oils testing 25 degrees API or more, containing not more than 15 ppm of sulfur.
2710191109	Light fuel oils testing 25 degrees API or more, containing more than 15 ppm but not more than 500 ppm of sulfur.
2710191112	Light fuel oils 25 degrees API or more having a saybolt universal viscosity at 37.8 degrees C of less than 45 seconds, containing over 500 ppm sulfur.
2710191115	No. 4-type fuel oils containing not more than 500 ppm of sulfur.
2710191125	No. 4-type fuel oils containing more than 500 ppm of sulfur.
2710191150	Heavy fuel oils 25 degrees API or more with a saybolt universal viscosity at 37.8 degrees C of more than 125 seconds.
2710191600	Kerosene-type jet fuel, NESOI.
2710192400	Kerosene motor fuel.
2710192500	Kerosene motor fuel blending stock.
2710192600	Kerosene, except motor fuel or motor fuel blending stock, NESOI.
2710193010	Aviation engine lubricating oils (except jet engine lubricating oils).
2710193020	Automotive, diesel or marine engine (except turbine) lubricating oils.
2710193030	Turbine lubricating oil, including marine.
2710193040	Automotive gear oils.
2710193050	Steam cylinder oils.
2710193070	Quenching or cutting oils.
2710193080	Lubricating oils with or without additives, NESOI.

Schedule B No.	Commodity description
2710193750	Lubricating greases with or w/out additives.
2710194530	White mineral oils, medicinal grade.
2710194540	White mineral oils, except medicinal grade.
2710194545	Insulating or transformer oils, NESOI.
2710194590	Mixtures of hydrocarbons NESOI, containing by weight not over 50 percent of any single hydrocarbon compound.
2710199000	Petroleum oils or oils obtained from bituminous minerals, other than crude, containing by weight 70% or more of petroleum oils, NESOI.
2710200000	Petroleum oils or oils obtained from bituminous minerals, other than crude, containing by weight 70% or more of petroleum oils, containing biodiesel.
2710910000	Waste oils containing Polychlorinated Biphenyls (PCBs), Polychlorinated Terphenyls (PCTs), or Polybrominated Biphenyls (PBBs).
2710990000	Waste oils, not elsewhere specified or included.
2711110000	Natural gas, liquefied.
2711120000	Propane, liquefied.
2711130000	Butanes, liquefied.
2711140000	Ethylene, propylene, butylene and butadiene liquefied.
2711190000	Petroleum gases and other gaseous hydrocarbons, liquefied, NESOI.
2712200000	Paraffin wax containing less than 0.75 percent oil.
2712900000	Microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products, NESOI.
2713110000	Petroleum coke, not calcined.
2713120000	Petroleum coke, calcined.
2713200000	Petroleum bitumen.
2713900000	Residues of petroleum oils or of oils obtained from bituminous materials, NESOI.
2714900000	Bitumen and asphalt, natural; asphaltites and asphaltic rocks.
2715000000	Bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch.
2804100000	Hydrogen.
2804290010	Helium.
2811210000	Carbon dioxide.
2811299000	Carbon monoxide.
2814100000	Anhydrous ammonia.
2814200000	Ammonia in aqueous solution.
3819000000	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70 percent by weight of petroleum oils or oils obtained from bituminous minerals.

■ 7. Revise Supplement No. 2 to Part 754 to read as set forth below:

SUPPLEMENT NO. 2 TO PART 754—UNPROCESSED WESTERN RED CEDAR

This table is a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed western red cedar products subject to license requirements of § 754.4 of this part. The 10-digit Harmonized System-based Schedule B commodity numbers and descriptions below are drawn from *Chapter 44 of the Schedule B 2014* found at *http://www.census.gov/foreign-trade/schedules/b/2014/c44.html* and the *AES 2014 Export Concordance* (December 30, 2013) *http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt*. If there are any discrepancies between the information in this supplement and the information in the most current Schedule B, use the most current Schedule B commodity number on your Electronic Export Information filing in the Automated Export System.

Schedule B commodity No.	Description
	Wood in the rough
4403100030	Poles, piles and posts; 'treated'.
4403100060	Wood in the rough; 'treated'.
4403200010	Not 'treated'; coniferous; poles, piles and posts.
4403200055	Not 'treated'; coniferous; logs and timber; Western Red Cedar (Thuja Plicata).
	'Lumber'
4407100101	Coniferous; finger-jointed.
4407100102	Coniferous; except finger-jointed; 'treated'.
4407100168	Coniferous; except finger-jointed; not 'treated'; Western Red Cedar (Thuja Plicata); 'rough'.
4407100169	Coniferous; except finger-jointed; not 'treated'; Western Red Cedar (Thuja Plicata); not 'rough'.

Note 1: *4403 heading in the Schedule B 2014 pertains to ''wood in the rough, whether or not stripped of bark or sapwood, or roughly squared (not including lumber of heading 4407).''*

Note 2: The *6-digit Harmonized System subheading 4403.10 and the 10-digit Harmonized System code 4407.10.0102 in Schedule B 2014 state that 'treated' means ''treated with paint, stain, creosote or other preservatives.''*

Note 3: The *4407 heading in the Schedule B 2014 refers to 'lumber' as ''wood sawn or*

chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm (.236 inch).''

Note 4: Section IX—Chapter 44 of *Schedule B 2014, Statistical Note 3 states, ''for the purpose of heading 4407, the term ''rough'' includes wood that has been edged, resawn, crosscut or trimmed to smaller sizes but it does not include wood that has been dressed or surfaced by planing on one or more edges or faces or has been edge-glued or end-glued.''*

PART 774—[AMENDED]

■ 8. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1, ECCN 1C988 is amended by revising the Heading and the Related Definitions paragraph in the List of Items Controlled section, to read as follows:

SUPPLEMENT NO. 1 TO PART 774—THE COMMERCE CONTROL LIST

* * * * *

1C988 Unprocessed western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane, as described in § 754.4 of the EAR.

* * * * *

List of Items Controlled

* * * * *

Related Definitions: For a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed Western Red Cedar products subject to § 754.4 and related definitions, see Supplement No. 2 to part 754 of the EAR.

* * * * *

Dated: June 12, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–14157 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0138]

RIN 1625–AA08

Special Local Regulations for Marine Events, Nanticoke River; Bivalve, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Coastal Aquatics Swim Team Open Water Summer Shore Swim'', a marine event to be held on the waters of the Nanticoke River at Bivalve, MD on June 29, 2014. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Nanticoke River during the event.

DATES: This rule is effective from June 17, 2014 through June 29, 2014 and enforceable from 8 a.m. to 12:30 p.m. on June 29, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0138]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On March 27, 2014, we published a notice of proposed rulemaking (NPRM) entitled ''Special Local Regulations for Marine Events, Nanticoke River; Bivalve, MD'' in the **Federal Register** (79 FR 17082). We received no comments on the proposed rule. No public meeting was requested, and none was held.

The Administrative Procedure Act (APA) (5 U.S.C. 553(d)(3)) authorizes an agency to publish a rule less than 30 days before its effective date when the agency for good cause finds that waiting 30 days would be ''impracticable, unnecessary, or contrary to the public interest.'' The Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. As stated above, we published the NPRM on these special local regulations on March 27, 2014 (79 FR 17082), and we received no comments on the proposed rule. Delaying this regulation's effective date for 30 days would be impracticable and would be contrary to the public interest as immediate action is needed to ensure the safety of the event participants, spectator craft, and other vessels transiting the event area. A special local regulation is in the public interest in making this a safe event. The Coast Guard will provide advance notifications to users of the affected waterways of the safety zone via marine information broadcasts and local notice to mariners.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Coastal Aquatics Swim Team Open Water Summer Shore Swim event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory

Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only 4½ hours; (2) the regulated area has been narrowly tailored to impose the least impact on general navigation, yet provide the level of safety deemed necessary; (3) persons and vessels will be able to transit safely around the regulated area; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Nanticoke River encompassed within the special local regulations from 8 a.m. to 12:30 p.m. on June 29, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of

Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary section, § 100.35–T05–0138 to read as follows:

§ 100.35–T05–0138 Special Local Regulations for Marine Events, Nanticoke River; Bivalve, MD.

(a) *Regulated area.* The following location is a regulated area: All waters of the Nanticoke River, bounded by a line drawn from a point on the shoreline at latitude 38°19′15″ N, longitude 075°53′13″ W, thence westerly to latitude 38°19′23″ N, longitude 075°53′45″ W, thence southerly to latitude 38°18′51″ N, longitude 075°54′01″ W, thence easterly to latitude 38°18′42″ N, longitude 075°53′31″ W, located at Bivalve, MD. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the Coastal Aquatics Swim Team Open Water Summer Shore Swim event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) With the exception of participants, all persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

(3) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(4) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 12:30 p.m. on June 29, 2014.

Dated: May 20, 2014.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2014–14169 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0468]

Drawbridge Operation Regulation; Charles River, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Craigie Bridge across the Charles River, mile 1.0, at Boston, Massachusetts. The deviation is necessary to allow the bridge to remain in the closed position for two hours to facilitate a public event; the Boston Pops Fireworks Spectacular.

DATES: This deviation is effective between 11 p.m. on July 4, 2014 through 1 a.m. on July 5, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0468] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. John McDonald, Project Officer, First Coast Guard District, *john.w.mcdonald@uscg.mil*, or (617) 223–8364. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Craigie Bridge has a vertical clearance of 15 feet at normal pool elevation above the Charles River Dam. The existing drawbridge operating regulations are found at 33 CFR 117.591(e).

The Massachusetts Department of Transportation, requested a bridge closure to facilitate a public event, the July 4th Boston Pops Fireworks Spectacular.

Under this temporary deviation, the Craigie Bridge may remain in the closed position from 11 p.m. on July 4, 2014 through 1 a.m. on July 5, 2014. Vessels that can pass under the bridge in the closed position may do so at all times.

The Charles River supports seasonal recreational vessel traffic. There are no alternate routes. The bridge can be opened in the event of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 6, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–14160 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0466]

Drawbridge Operation Regulation; Lake Washington, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Washington Department of Transportation (WSDOT) State Route 520/Evergreen Point Floating Bridge across Lake Washington at Seattle, WA. This deviation allows the bridge to remain in the closed position to accommodate the safe movement of ''Rock and Roll Run'' event participants.

DATES: This deviation is effective from 11 a.m. to 2 p.m. on June 21, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0466] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The WSDOT requested a temporary deviation from the operating schedule for the State Route 520/Evergreen Point Floating Bridge across Lake Washington at Seattle, WA. The requested deviation is necessary to accommodate safe movement of ''Rock and Roll Run'' event participants. This deviation allows the State Route 520/Evergreen Point Floating Bridge across Lake Washington at Seattle, WA to remain in the closed position and need not open for vessel traffic from 11 a.m. to 2 p.m. on June 21, 2014. Vessels which do not require bridge openings may continue to transit beneath the bridge during the closure period.

The Evergreen Point Floating Bridge provides three navigational openings for vessel passage, the movable floating span, subject to this closure, and two fixed navigational openings; one on the east end of the bridge and one on the west end. The fixed navigational opening on the east end of the bridge provides a horizontal clearance of 150 feet and a vertical clearance of 57 feet. The opening on the west end of the bridge provides a horizontal clearance of 170 feet and a vertical clearance of 45 feet. Vessels that are able to safely pass through the fixed navigational openings are allowed to do so during this closure period. Under normal conditions, during this time frame, the bridge operates in accordance with 33 CFR 117.1049 which states the bridge shall open on signal if at least two hours notice is given. This deviation period is from 11 a.m. to 2 p.m. June 21, 2014. The deviation allows the floating draw span of the Evergreen Point Floating Bridge on Lake Washington to remain in the closed position and need not open for maritime traffic from 11 a.m. to 2 p.m. on June 21, 2014. Waterway usage on Lake Washington ranges from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridges' operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridge will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 6, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–14163 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0416]

Drawbridge Operation Regulations; Reynolds Channel, Nassau, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Long Beach Bridge, across Reynolds Channel, mile 4.7, at Nassau, New York. The deviation is necessary to allow the bridge to remain in the closed position for two and a half hours to facilitate a public event; the Town of Hempstead Annual Fireworks Display.

DATES: This deviation is effective between 9:30 p.m. and 12 a.m. on June 28, 2014 and June 29, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0416] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Long Beach Bridge has a vertical clearance of 20 feet at mean high water, and 24 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.799(g).

The Town of Hempstead Department of Public Safety, requested a bridge closure to facilitate a public event, the Town of Hempstead Annual Salute to Veterans Fireworks Display.

Under this temporary deviation, the Long Beach Bridge may remain in the closed position between 9:30 p.m. and 12 a.m. on June 28, 2014, with a rain

date of June 29, 2014. Vessels that can pass under the bridge in the closed position may do so at all times.

Reynolds Channel has commercial and recreational vessel traffic. There are no alternate routes. The bridge can be opened in the event of an emergency. No objections were received from the waterway users.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 6, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–14168 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1005]

RIN 1625–AA09

Drawbridge Operation Regulation; Hackensack River, Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the PATH Railroad Bridge across the Hackensack River at mile 3.0, and the Hack-Freight Bridge across the Hackensack River at mile 3.1, at Jersey City, New Jersey. The owners of the bridges, the Port Authority Trans-Hudson (PATH) and Conrail, requested a change to the operation schedule for the PATH Railroad Bridge and the Conrail Hack-Freight to allow it to be operated from a remote location. In addition, we removed obsolete language and requirements from the existing regulation that are now listed under other regulations. It is expected that this change to the regulations will create efficiency in drawbridge operations while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective July 17, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–1005. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type in the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Branch, 212–668–7165, *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

On March 28, 2014, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation Hackensack River, at Jersey City, New Jersey'' in the **Federal Register** (79 FR 17483). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The PATH Railroad Bridge across the Hackensack River at mile 3.0, has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The Hack-Freight Bridge across the Hackensack River at mile 3.1, has a vertical clearance of 11 feet at mean high water and 16 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The waterway users are commercial operators.

The owners of the bridges, Port Authority Trans-Hudson Corporation (PATH) and Conrail, submitted requests to the Coast Guard to operate the Conrail Hack-Freight Bridge from a remote location and to change the drawbridge operation for the PATH Bridge.

Under this final rule, Conrail shall operate its Hack-Freight Bridge across the Hackensack River at mile 3.1, from a remote location, the Conrail Leigh Valley Bridge Office, at all times when a draw tender is not stationed at the bridge. A draw tender may be stationed at the bridge at various times when it is deemed necessary for safety purposes such as during times when bridge maintenance is being performed.

Conrail operates several other bridges from its Leigh Valley Bridge Office, the Conrail Bridge at mile 2.0, across the Rahway River and the Arthur Kill Bridge at mile 11.6, across Arthur Kill.

Under this final rule, the Coast Guard is also changing the drawbridge operation regulations for the PATH Railroad Bridge.

The owner of the PATH Railroad Bridge, the Port Authority Trans-Hudson Corporation (PATH), asked the Coast Guard to change the drawbridge operation schedule for its Path Railroad Bridge, to require at least a two hour advance notice for bridge openings at all times.

In addition, PATH requested that the PATH Railroad Bridge be allowed to remain in the closed position during time periods when commuter rail traffic is heaviest from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m.

PATH agreed to provide additional bridge openings during the commuter closure periods for commercial vessels, from 6 a.m. to 7:20 a.m., 9:20 a.m. to 10 a.m., 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., upon a two hour advance notice, to help facilitate commercial vessel traffic. Notice may be provided by calling the number posted at the bridge.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We believe that this rule is not a significant regulatory action because the PATH Railroad Bridge provides adequate clearance for commercial vessels in the closed position and the commercial vessels will be able to get additional openings provided advance notice is given by calling the number posted at the bridge. Additionally, the

Hack-Freight Bridge can be transited at all times but will be tended remotely.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will have no effect on small entities for the following reason: The high vertical clearance of the PATH Railroad Bridge of 40 feet at mean high water should accommodate all present vessel traffic except deep draft. Additionally, vessels may transit the bridge at all other times with a two hour advance notice and can plan their trips accordingly during any closure periods. As for the Hack-Freight Bridge, vessels may transit the bridge at all times.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule, if the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive order 13211, Actions Concerns Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.723 to read as follows:

§ 117.723 Hackensack River.

(a) The following requirements apply to all bridges across the Hackensack River:

(1) The owners of each bridge shall provide and keep in good legible condition clearance gauges for each draw, with figures not less than 18 inches high for bridges below the turning basin at mile 4.0, and 12 inches high for bridges above mile 4.0. The

gauges shall be designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(2) Train and locomotives shall be controlled so that any delay in opening the draw shall not exceed 10 minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting the opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before stopping or reversing.

(3) New Jersey Transit Rail Operations' (NJTRO) roving crews shall consist of two qualified operators on each shift, each having a vehicle which is equipped with marine and railroad radios, a cellular telephone, and emergency bridge repair and maintenance tools. This crew shall be split with one drawtender stationed at Upper Hack and the other drawtender at the NJTRO HX drawbridge. Adequate security measures shall be provided to prevent vandalism to the bridge operating controls and mechanisms to ensure prompt openings of NJTRO bridges.

(4) Except as provided in paragraphs (b) through (j) of this section, the draws shall open on signal.

(b) The draw of the PATH Bridge, mile 3.0, at Jersey City, shall open on signal provided at least a two-hour advance notice is provided by calling the number posted at the bridge. The draw need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m.

Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m. provided at least a two-hour advance notice is given by calling the number posted at the bridge.

(c) The draw of the Hack-Freight Railroad Bridge at mile 3.1, shall open on signal at all times, except as provided in paragraph (a)(2) of this section. The bridge shall be operated from a remote location at all times, except when it is tended locally. Sufficient closed circuit television cameras, approved by the Coast Guard, shall be operated and maintained at the bridge site to enable the remotely located bridge tender to have full view of both river traffic and the bridge.

(1) Radiotelephone Channel 13/16 VHF–FM shall be maintained and utilized to facilitate communication in both remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels.

(2) Whenever the remote control system equipment is partially disabled or fails for any reason, the bridge shall be physically tended and operated by local control as soon as possible, but no more than 45 minutes after malfunction or disability of the remote system. Mechanical bypass and override capability of the remote system shall be provided and maintained.

(d) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO Lower Hack Bridge, mile 3.4, at Jersey City shall open on signal if at least a one-hour advance notice is given to the drawtender at the Upper Hack bridge, mile 6.9, at Secaucus, New Jersey by calling the number posted at the bridge. In the event the NJTRO HX draw tender is at the Newark/Harrison (Morristown Line) Bridge, mile 5.8, on the Passaic River, up to an additional half hour delay is permitted.

(e) Except as provided in paragraph (a)(2) of this section, the draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge. At all other times the draw shall open on signal.

(f) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO Upper Hack Bridge, mile 6.9 at Secaucus, N.J. shall open on signal unless the drawtender is at the NJTRO HX Bridge, mile 7.7 at Secaucus, N.J. over the Hackensack River, then up to a half hour delay is permitted.

(g) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO HX Bridge at mile 7.7, shall open on signal if at least a half hour notice is given to the drawtender at the Upper Hack Bridge.

(h) Except as provided in paragraph (a)(2) of this section, the draw of the S46 Bridge, at mile 14.0, in Little Ferry, shall open on signal if at least a twenty four hour advance notice is given by calling the number posted at the bridge.

(i) The draw of the Harold J. Dillard Memorial (Court Street) Bridge, mile 16.2, Hackensack, shall open on signal if at least four hours notice is given.

(j) The draw of the New York Susquehanna and Western Railroad bridge, mile 16.3, and the Midtown bridge, mile 16.5, both at Hackensack, need not be opened for the passage of vessels, however, the draws shall be restored to operable condition within 12 months after notification by the District Commander to do so.

Dated: May 30, 2014.

V.B. Gifford, Jr.,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2014–14172 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0467]

Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Washington Department of Transportation (WSDOT) Montlake Bridge across the Lake Washington Ship Canal, mile 5.2, at Seattle, WA. This deviation allows the bridge to remain in the closed position to accommodate the safe movement of ''Rock and Roll Run'' event participants.

DATES: This deviation is effective from 11 a.m. to 2 p.m. on June 21, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0467] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The WSDOT requested a temporary deviation from the operating schedule for the Montlake Bridge across the Lake

Washington Ship Canal, mile 5.2, at Seattle, WA. The requested deviation is necessary to accommodate safe movement of ''Rock and Roll Run'' event participants. This deviation allows the Montlake Bridge across the Lake Washington Ship Canal, mile 5.2, at Seattle, WA to remain in the closed position and need not open for vessel traffic from 11 a.m. to 2 p.m. on June 21, 2014. Vessels which do not require bridge openings may continue to transit beneath the bridge during the closure period.

The Montlake Bridge crosses the Lake Washington Ship Canal at mile 5.2 and while in the closed position provides 30 feet of vertical clearance throughout the navigation channel and 46 feet of vertical clearance throughout the center 60-feet of the bridge; vertical clearance referenced to the Mean Water Level of Lake Washington. Vessels which do not require a bridge opening may continue to transit beneath the bridge during this closure period. Under normal conditions this bridge opens on signal, subject to the list of exceptions provided in 33 CFR 117.1051(e). This deviation period is from 9 a.m. to 2 p.m. June 21, 2014. Waterway usage on the Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridges' operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridge will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 6, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–14174 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0372]

RIN 1625–AA00

Safety Zone, Urbanna Creek; Saluda, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of Urbanna Creek in Saluda, VA to support the Urbanna Independence Day Celebration fireworks display. This action is intended to restrict vessel traffic movement in the designated area in order to protect the life and property of the maritime public and spectators from the hazards associated with fireworks displays.

DATES: This rule will be effective and enforced on July 5, 2014 from 10:00 p.m. to 10:30 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0372]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Gregory Knoll, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668–5581, email *Gregory.J.Knoll@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202)-366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard received the application for a marine event on May 12, 2014, well short of the 135 day window required for a new marine event application. As such, it is impracticable to provide a full comment period due to lack of time. Any delay encountered in this regulation's effective date would be contrary to the public interest as immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area. The Coast Guard will provide advance notifications to users of the affected waterways of the safety zone via marine information broadcasts, local notice to mariners, commercial radio stations, and area newspapers.

B. Basis and Purpose

On July 5, 2014, the town of Urbanna will host a fireworks display on the bank of Urbanna Creek in Saluda, VA. The fireworks debris fallout area will extend over the navigable waters of Urbanna Creek. Due to the need to protect mariners and spectators from the hazards associated with the fireworks displays, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, vessel traffic will be temporarily restricted within 350 feet of the fireworks launch site.

C. Discussion of the Rule

The Coast Guard is establishing a safety zone on specified waters of Urbanna Creek in Saluda, VA. The fireworks will be launched from shore in the vicinity of Rosegill Farm Airstrip. The safety zone will encompass all navigable waters within 350 feet of the fireworks launching location at position 37°38′09″ N, 076°34′03″ W. This safety zone will be established and enforced from 10:00 p.m. until 10:30 p.m. on July 5, 2014. Access to the safety zone will be restricted during the specified date and times. Except for individuals responsible for launching the fireworks and vessels authorized by the Captain of the Port or his Representative, no person

or vessel may enter or remain in the regulated area.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; (iii) mariners may transit the waters in and around this safety zone at the discretion of the Captain of the Port or designated representative; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in that portion of Urbanna Creek from 10:00 p.m. until 10:30 p.m. on July 5, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration; and (ii) Before the enforcement period of July 5, 2014, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have determined this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone for a fireworks display launch site and fallout area and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. This rule is categorically from further review under paragraph (34)(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0372 to read as follows:

§ 165.T05–0372 Safety Zone, Urbanna Creek; Saluda, VA.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector Hampton Roads. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10, all waters of Urbanna Creek within a 350 foot radius of the fireworks launching location in approximate position latitude 37°38′09″ N longitude 076°34′03″ W, located near Rosegill Farm Airstrip in Saluda, VA.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period.* This section will be enforced on Saturday July 5, 2014 from 10:00 p.m. to 10:30 p.m. unless cancelled earlier by the Captain of the Port.

Dated: May 23, 2014.

John K. Little,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 2014–14161 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0413]

RIN 1625–AA00

Safety Zone; Cape Fear River; Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Cape Fear River in Wilmington, NC in support of a fireworks display on June 20, 2014. This action is necessary to protect the life and property of the maritime public and spectators from the hazards posed by aerial fireworks displays. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port.

DATES: This rule is effective from 9 p.m. to 10 p.m. on June 20, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0413]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Evelynn B. Samms, Coast Guard Sector North Carolina, Coast Guard; telephone (910) 772–2207, email *Evelynn.B.Samms@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the final details for this event were not provided to the Coast Guard until May 19, 2014. Delaying the effective date for comment would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area. The Coast Guard will provide advance notifications to users of the effected waterways of the safety zone via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

B. Basis and Purpose

On June 20, 2014, the North Carolina Bar Association will sponsor a fireworks display originating from the Battleship ''North Carolina'' parking lot on the Cape Fear River at latitude 34°14′11″ N longitude 077°56′57″ W. The fireworks debris fallout area will extend over the navigable waters of the Cape Fear River. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, including accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, vessel traffic will be temporarily restricted from transiting within the fireworks launch and fallout area.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone on the navigable waters of the Cape Fear River in Wilmington, NC. The regulated area of this safety zone includes all water of the Cape Fear River within a 300 yards radius of 34°14′11″ N longitude 077°56′57″ W latitude.

This safety zone will be established and enforced from 9 p.m. to 10 p.m. on June 20, 2014. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation restricts access to a small segment of the Cape Fear River, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the Cape Fear River where fireworks events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during the fireworks display event that has been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the regulated area when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of

Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone for a fireworks display launch site and fallout area and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0413 to read as follows:

§ 165.T05-0413 Safety Zone; Cape Fear River, Wilmington, NC.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port, Sector North Carolina, as defined in 33 CFR 3.25–20, all waters of the Cape Fear River within a 300 yard radius of approximate position latitude 34°14′11″ N longitude 077°56′57″ W, located on the Battleship ''North Carolina'' parking lot.

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (910) 343–3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced on June 20, 2014 from 9 p.m. to 10 p.m. unless cancelled earlier by the Captain of the Port.

Dated: June 3, 2014.

S.R. Murtagh,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 2014–14166 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0364]

RIN 1625–AA00

Eighth Coast Guard District Annual Safety Zones; Wheeling Heritage Port Sternwheel Festival; Ohio River Mile 90.2 to 90.7; Wheeling, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of Enforcement of Regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Wheeling Heritage Port Sternwheel Festival Fireworks on the Ohio River, from mile 90.2 to 90.7, extending the entire width of the river. This zone will be in effect on September 13, 2014 from 8:45 p.m. until 10:00 p.m. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Wheeling Heritage Port Sternwheel Festival Fireworks Barge-based Fireworks. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 will be enforced with actual notice on September 13, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document of enforcement, call or email Ronald Lipscomb, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 644–5808, email *Ronald.c.lipscomb1@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone for the annual Wheeling Heritage Port Sternwheel Festival listed in 33 CFR 165.801 Table 1, Table No. 152; Sector Ohio Valley, No. 56.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Table No. 152; Sector Ohio Valley, No. 56 is prohibited unless authorized by the Captain of the Port or

a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or designated representative.

This document is issued under authority of 5 U.S.C. 552(a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

If the Captain of the Port Pittsburgh or designated representative determines that the Safety Zone need not be enforced for the full duration stated in this document of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 28, 2014.

L.N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 2014–14178 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0298]

RIN 1625–AA00

Safety Zone, Chesapeake Bay; Cape Charles, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Chesapeake Bay in Cape Charles, VA. This safety zone will restrict vessel movement in the specified area during the Virginia Chapter Young Presidents Organization and Cape Charles fireworks displays. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the fireworks displays.

DATES: This rule is effective and will be enforced from 9:30 p.m. until 10 p.m. on June 20, 2014 and August 2, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0298]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Gregory Knoll, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668–5581, email *Gregory.J.Knoll@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior written notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so will be unnecessary and contrary to the public interest. The enforcement of the safety zone will be brief in time and well-publicized, and the location is already used for other fireworks displays during the year as noted in 33 CFR 165.506(c). It is unnecessary to provide a comment period for the safety zone because the public is already aware of the impact that a limited duration safety zone has in the immediate area. Additionally, providing a comment period would be against the public interest because of the delay that providing for a comment period would cause. Delaying the public announcement of this safety zone would be detrimental to the protection of life and property because of how limited notice the public would receive about the safety zone. As a result, the public may not be aware of the safety zone and may be at risk for danger from falling debris and other hazards associated with fireworks in a marine environment. The Coast Guard received the applications for these two fireworks displays with short notice, both well after the specified deadline of 135 days prior to the event. As such, it is in the public interest to publish the final rule as soon as possible to provide for maximal advertisement of the rule. By removing the comment period, the rule will be published with much greater advanced notice, allowing the boating public to make plans to avoid the safety zone as needed.

B. Basis and Purpose

Spectator vessels may gather nearby to view the fireworks displays. Due to the need for vessel control during the fireworks display, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 165.506, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

C. Discussion of the Final Rule

The Captain of the Port of Hampton Roads is establishing a safety zone on specified waters of the Chesapeake Bay within a 350 foot radius of the position: 37°-15′-47″ N/076°-01′-29″ W (NAD 1983), in the vicinity of Cape Charles, Virginia. This safety zone will be enforced on June 20, 2014 and August 2, 2014 between the hours of 9:30 p.m. and 10:00 p.m. Access to the safety zone will be restricted during the specified dates and times.

Except for vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the safety zone during the time frame listed. The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the safety zone on the Chesapeake Bay in the vicinity of Cape Charles, VA from 9:30 p.m. until 10:00 p.m. on June 20, 2014 and August 2, 2014. Although these regulations prevent traffic from transiting a portion of the Chesapeake Bay during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in waters of the Chesapeake Bay during the outlined timeframe.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration, and (ii) before the enforcement period, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one

of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34-g of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0298 to read as follows:

§ 165.T05–0298 Safety Zone, Chesapeake Bay; Cape Charles, VA

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector Hampton Roads. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10, in the vicinity of the Chesapeake Bay near Cape Charles, VA all waters within a 350 foot radius of 37°-15′-47″ N/076°-01′-29″ W (NAD 1983).

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Contact on scene contracting vessels via VHF channel 13 and 16 for passage instructions.

(ii) If on scene proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement period.* This section will be enforced from 9:30 p.m. until 10:00 p.m. on June 20, 2014 and August 2, 2014.

Dated: May 23, 2014.

John K. Little,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 2014–14177 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0381]

RIN 1625–AA00

Eighth Coast Guard District Annual Safety Zones; Push Beaver County Fireworks; Ohio River Mile 25.2 to 25.6; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Enforcement of Regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Push Beaver County Fireworks on the Ohio River, from mile 25.2 to 25.6, extending the entire width of the river. This zone will be in effect on June 28, 2014 from 8:30 p.m. until 10:30 p.m. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Push Beaver County Barge-based Fireworks. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 will be enforced with actual notice on June 28, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document of enforcement, call or email Ronald Lipscomb, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 644–5808, email *Ronald.c.lipscomb1@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the Safety Zone for the annual Push Beaver County Fireworks listed in 33 CFR 165.801 Table 1, Table No. 152; Sector Ohio Valley, No. 40.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Table No. 152; Sector Ohio Valley, No. 40 is prohibited unless authorized by the Captain of the Port or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or designated representative.

This document is issued under authority of 5 U.S.C. 552(a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

If the Captain of the Port Pittsburgh or designated representative determines that the Safety Zone need not be enforced for the full duration stated in this document of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 19, 2014.

L.N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 2014–14179 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0393]

RIN 1625–AA00

Eighth Coast Guard District Annual Safety Zones; Guyasuta Days Festival; Allegheny River Mile 5.7 to 6.0; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Enforcement of Regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Guyasuta Days Festival Fireworks on the Allegheny River, from mile 5.7 to 6.0, extending 200 feet from the right descending bank. This zone will be in effect on August 9, 2014 from 8:30 p.m. until 10:30 p.m. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the Guyasuta Days Festival Land-based Fireworks. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 will be enforced with actual notice on August 9, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document of enforcement, call or email Ronald Lipscomb, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 644–5808, email *Ronald.c.lipscomb1@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the Safety Zone for the annual Guyasuta Days Festival Fireworks listed in 33 CFR 165.801 Table 1, Table No. 152; Sector Ohio Valley, No. 28.

Under the provisions of 33 CFR 165.801, entry into the safety zone listed in Table 1, Table No. 152; Sector Ohio Valley, No. 28 is prohibited unless authorized by the Captain of the Port or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or designated representative.

This document is issued under authority of 5 U.S.C. 552(a); 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

If the Captain of the Port Pittsburgh or designated representative determines that the Safety Zone need not be enforced for the full duration stated in this document of enforcement, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 28, 2014.

L.N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 2014–14175 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2013–OESE–0159; CFDA Number: 84.215G]

Final Priorities, Requirement, and Definitions; Innovative Approaches to Literacy (IAL) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education (Department).

ACTION: Final priorities, requirement, and definitions.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces priorities, a requirement, and definitions under the IAL program. The Assistant Secretary may use one or more of the priorities, requirement, and definitions for competitions in fiscal year (FY) 2014 and later years. We take this action to ensure IAL projects are supported, at a minimum, by evidence of strong theory, and to focus Federal financial assistance on projects that serve rural local educational agencies (LEAs).

DATES: *Effective Date:* These priorities, requirement, and definitions are effective July 17, 2014.

FOR FURTHER INFORMATION CONTACT: David Moore Miller, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E235, Washington, DC 20202–6200. Telephone: (202) 453–5621 or by email: *david.miller@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the IAL program is to support high-quality projects designed to develop and improve literacy skills for children and students from birth through 12th grade within the attendance boundaries of high-need LEAs and schools.

Program Authority: 20 U.S.C. 7243–7243b.

We published a notice of proposed priorities, requirement, and definitions for this program in the **Federal Register** on February 28, 2014 (79 FR 11363). That notice contained background information and our reasons for proposing the particular priorities, requirement, and definitions.

There are differences between the proposed priorities, requirement, and definitions and these final priorities, requirement, and definitions as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

Public Comment: In response to our invitation in the notice of proposed priorities, requirement, and definitions, nine parties submitted comments on the proposed priorities, requirement, and definitions.

We group major issues according to subject. Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirement, and definitions since publication of the notice of proposed priorities, requirement, and definitions follows.

Priorities

Comment: One commenter recommended that we amend proposed priority 1 to require, as a minimum level of evidence, that projects be supported by evidence of promise rather than strong theory. The commenter explained that the strong theory level of evidence proposed in priority 1 appears to set a lower standard of evidence than was used in the previous competition, which required applicants to cite at least one study in support of the proposed project that meets the definition of ''scientifically valid research.'' The commenter also recommended that the Department look for stronger standards of evidence for all applicants.

Discussion: We agree with the commenter that the Department should

encourage the use of strong standards of evidence in general. Because we found the term imprecise, we do not refer to ''scientifically based research'' in the priority. While an applicant to this program would now only need to provide evidence of strong theory in support of its proposed project, we think that this approach prepares the applicant to thoughtfully and successfully implement its project. Setting the minimum requirement of evidence at the strong theory level also allows for the most innovative project proposals because applicants are not restricted by a higher standard of evidence that would require some degree of replication of a previously executed approach.

Through selection criteria in 34 CFR 75.210, the Department can encourage the applicant to design a project evaluation that may help build on the level of evidence available for future projects. For example, if a project that uses strong theory is successful, the evaluation report that a grantee will prepare, as outlined in the selection criteria, could serve as sufficient evidence of promise for applicants to cite in support of future proposals. We take this approach in order to empower applicants to propose innovative ideas that, if successful, will broaden the base of available evidence in the field.

Changes: None.

Comment: One commenter asked that we identify each proposed priority as absolute, competitive, or invitational.

Discussion: We appreciate the commenter's interest in learning the type of priorities that will be assigned in upcoming competitions. It is our practice, however, to specify the priority types for each competition in the notice inviting applications, not in a notice of proposed priorities or a notice of final priorities.

Changes: None.

Eligibility

Comment: One commenter recommended including as an eligible entity a regional education service agency (RESA), as defined by the National Center for Education Statistics. The commenter noted that in many locations, these agencies act as intermediary agents between education departments and high-need rural LEAs that may otherwise lack capacity to apply for Federal grants.

Discussion: We appreciate the commenter's recommendation to include RESAs and other intermediary agencies as eligible applicants for this program; however, such entities generally already meet the definition of LEA included in the Elementary and Secondary Education Act of 1965, as amended (ESEA). Section 9101(26)(A) of the ESEA defines an ''LEA'' as an entity that is recognized in a State as an administrative agency for its public elementary schools or secondary schools, and section 9101(26)(D) of the ESEA specifically includes educational service agencies and consortia of those agencies under the term ''LEA.''

Changes: None.

Comment: Two commenters recommended expanding the eligibility requirement to include high-need populations that are not served by high-need LEAs. One noted that some preschool sites served by national not-for-profit organizations (NNPs) may not fall within the attendance boundaries of a high-need LEA, yet may still be serving high-need children. The other commenter recommended including low-performing and unaccredited districts as eligible entities, and also expanding the target population to include students of families with incomes below the poverty line, but who attend schools in LEAs that do not meet the threshold of 25 percent of students from families with incomes below the poverty line.

Discussion: We appreciate the commenters' recommendations to consider expanding eligibility and the target population served. However, the Department must focus its limited resources on the areas of highest need. The eligibility requirement we have established is designed to ensure that IAL funds will reach those communities most in need.

Changes: None.

Comment: One commenter recommended that we provide additional guidance regarding acceptable Census Bureau data sets for determining high-need LEAs, noting that the Census Bureau's Small Area Income and Poverty Estimates (SAIPE) data set does not include children from birth through age four in its school district poverty estimates. The commenter also noted that the Census Bureau's American Community Survey (ACS) data set includes family poverty information for students birth through age four.

Discussion: We appreciate the commenter's recommendation for clarification concerning the acceptable Census Bureau data set for determining target population eligibility. Although we recognize that the SAIPE for school districts lacks specific information for children under age five, at this time SAIPE are the most satisfactory data available from the U.S. Census Bureau for the purposes of this program.

While we agree that poverty data for birth through age four would be useful for determining eligibility for this program, the Census Bureau's model-based SAIPE data provide single-year estimates for students aged 5–17 that are more reflective of current conditions than are the multi-year survey estimates provided by ACS data. That is, SAIPE methodology combines ACS estimates with other data sources to provide more timely, precise, and stable estimates than the five-year ACS estimates alone. Significantly, SAIPE data incorporate ''grade relevance,'' whereas ACS estimates do not. For areas with small populations, SAIPE data contain less uncertainty and have lower error variance than ACS estimates. SAIPE data therefore provide more accurate representations of student poverty information than ACS data.

A list of high-need LEAs, by State, that are eligible for IAL funding in FY 2014 will be available at the program Web site (*http://www2.ed.gov/programs/innovapproaches-literacy/index.html*) when this notice and the notice inviting applications are published.

Although we do not support using a different source of data for determining eligibility under this program, we do believe a modification to the definition of ''high-need LEA'' is appropriate. In order to ensure the definition of ''high-need LEA'' is consistent with the SAIPE data used to determine eligibility, we believe that we should change the reference from ''geographic area'' to ''school attendance area'' and adjust the age range from 0–17 to 5–17.

Also, we note that SAIPE are data used under section 1124(c)(3) of Title I of the ESEA for the purpose of making allocations and that not all LEAs are listed on the Census Bureau's lists. Therefore, we also clarify that States determine eligibility status for LEAs that are not listed with SAIPE data (e.g., charter school LEAs, State-administered schools, and regional service agencies), and we provide information about how States may verify the elegibility of such LEAs.

Changes: We have revised the definition of a ''high-need LEA.'' Under the revised definition, a ''high-need LEA'' is one in which at least 25 percent of the students aged 5–17 in the ''school attendance area'' of the LEA (rather than ''geographic area'') are from families with incomes below the poverty line based on the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list). In addition, we added language to the definition of a ''high-need LEA''

addressing how to determine if an LEA that is not on the Census list, such as a charter school LEA, is a ''high-need LEA.'' Such an LEA is considered a ''high-need LEA'' if the State educational agency (SEA) determines, consistent with the manner in which the SEA determines an LEA's eligibility for Title I allocations, that 25 percent of the students aged 5–17 in the LEA are from families with incomes below the poverty line.

Also, based on the revised definition of ''high-need LEA,'' we have made a corresponding technical change to Proposed Priority 1 to delete the phrase ''within attendance boundaries'' because the revised definition of ''high-need LEA'' now contemplates LEAs (such as charter school LEAs) that may draw students from beyond attendance boundaries.

Reporting

Comment: One commenter recommended broadening the Government Performance and Results Act of 1993 (GPRA) measures to include reporting on children birth through 12th grade, noting that the current measures exclude reporting for children younger than age four, students who are in kindergarten, and students in grades four and five.

Discussion: We appreciate the commenter's recommendation to broaden GPRA reporting measures for this program. However, we intend the GPRA measures for this program to provide an overview of program performance rather than to assess performance at the level of each age or grade-level served. Given the variety of projects possible under this program, we believe that applicants are best equipped to develop detailed performance measures that address the goals and objectives unique to individual projects. We note that although GPRA reporting is not required for projects to which GPRA reporting measures do not apply, the Department will be able to collect data on progress for children younger than age four, students in kindergarten, and students in grades four and five from project-specific performance measures developed as part of the grantees' local evaluation design.

Changes: None.

General

Comment: One commenter recommended that the onus to coordinate with school libraries should be placed on LEAs and NNPs, rather than requiring school libraries to coordinate with LEAs and NNPs. The commenter indicated that this change would ensure better consistency with the guiding language from S. Rep. 113–17 and the Federal grantmaking process.

Discussion: We agree that placing the onus on LEAs and NNPs, rather than on school libraries, to coordinate resources in developing IAL proposals will ensure better consistency with the cited report language and the Federal grantmaking process.

Changes: We have revised the eligibility requirement by adding language to indicate that LEAs and NNPs must coordinate with school libraries in developing project proposals.

Comment: One commenter recommended that current IAL grantees who apply for IAL funds in future competitions should be permitted to continue serving the same populations.

Discussion: We appreciate the commenter's recommendation. However, proposing to serve the same populations that were served in a previous award is already allowable and does not disqualify an applicant from receiving funds in a new award, provided the applicant meets the eligibility requirements of the program.

Changes: None.

Comment: One commenter asked that funding be directed toward initiatives that include cross-sector literacy and parental engagement programs, as well as those operating outside of traditional education settings, including within the healthcare infrastructure.

Discussion: We appreciate the commenter's recommendation that we direct funding toward cross-sector and non-traditional settings; however, the types of projects the commenter described are already possible under this program because there are no limitations on the locations at which services can be provided or the partners a grantee may choose. Additionally, we do not want to specify in this manner the types of projects that an applicant may propose, as we wish to maximize flexibility for applicants seeking to develop innovative project proposals.

Changes: None.

Final Priorities

Final Priority 1—High-Quality Plan for Innovative Approaches to Literacy That Include Book Distribution, Childhood Literacy Activities, or Both, and That Is Supported, at a Minimum, by Evidence of Strong Theory (as Defined in 34 CFR 77.1(c))

To meet this priority, applicants must submit a plan that is supported by evidence of strong theory, including a rationale for the proposed process, product, strategy, or practice and a corresponding logic model (as defined in 34 CFR 77.1(c)).

The applicant must submit a plan with the following information:

(a) A description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following—

(1) Promoting early literacy and preparing young children to read;

(2) developing and improving students' reading ability;

(3) motivating older children to read; and

(4) teaching children and students to read.

(b) the age or grade spans of children and students from birth through 12th grade to be served.

(c) a detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as evidence of strong theory); and

(d)(i) a description of how the proposed project is supported by strong theory; and

(ii) the corresponding logic model (as defined in 34 CFR 77.1(c)).

Final Priority 2—Serving Rural LEAs

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a rural LEA (as defined in this notice).

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the

priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirement

The Assistant Secretary for Elementary and Secondary Education establishes the following requirement for this program. We may apply this requirement in any year in which this program is in effect.

Eligibility: To be considered for an award under this competition, an applicant must:

(a) Be one of the following:

(1) A high-need LEA (as defined in this notice);

(2) An NNP (as defined in this notice) that serves children and students within the attendance boundaries of one or more high-need LEAs;

(3) A consortium of NNPs that serves children and students within the attendance boundaries of one or more high-need LEAs;

(4) A consortium of high-need LEAs; or

(5) A consortium of one or more high-need LEAs and one or more NNPs that serve children and students within the attendance boundaries of one or more high-need LEAs.

(b) Coordinate with school libraries in developing project proposals.

Final Definitions

The Assistant Secretary for Elementary and Secondary Education establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect:

College- and career-ready standards means content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State's college- and career-ready standards must be either (1) standards that are common to a significant number of States; or (2) standards that are approved by a State network of institutions of higher education, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.

Comprehensive statewide literacy plan means a plan (which may be a component or modification of the plan submitted under the Striving Readers Comprehensive Literacy formula grant program, CFDA 84.371B) that addresses the literacy and language needs of children from birth through 12th grade, including English learners and students with disabilities; aligns literacy policies, resources, and practices; contains clear instructional goals; and sets high expectations for all students and student subgroups.

High-need local educational agency (High-need LEA) means—

(i) Except for LEAs referenced in paragraph (ii), an LEA in which at least 25 percent of the students aged 5–17 in the school attendance area of the LEA are from families with incomes below the poverty line, based on data from the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list).

(ii) For an LEA that is not included on the Census list, such as a charter school LEA, an LEA for which the State educational agency (SEA) determines, consistent with the manner described under section 1124(c) of the ESEA in which the SEA determines an LEA's eligibility for Title I allocations, that 25 percent of the students aged 5–17 in the LEA are from families with incomes below the poverty line.

National not-for-profit (NNP) organization means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities.

Note: A local affiliate of an NNP does not meet the definition of NNP. Only a national agency, organization, or institution is eligible to apply as an NNP.

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program (SRSA) or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA at the time of application.

Universal design for learning (UDL) means a scientifically valid framework for guiding educational practice that (i) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and (ii) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are English learners.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirement, and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those

approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirement, and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 11, 2014.

Deborah Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–14047 Filed 6–16–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0298; FRL–9912–21–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Portable Fuel Container Amendment to Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision involves removing the Commonwealth's portable fuel container (PFC) regulations for control of evaporative emissions from new and in-use PFCs from the Pennsylvania SIP. In the submittal, Pennsylvania demonstrates that Federal PFC regulations promulgated by EPA in 2007 are expected to provide equal to or greater emissions reductions than those resulting from the Commonwealth's. EPA is approving this revision removing the Commonwealth's PFC regulations because the revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on August 18, 2014 without further notice, unless EPA receives adverse written comment by July 17, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0298 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0298, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0298. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM

you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 7, 2014, the Commonwealth of Pennsylvania submitted a formal revision to its SIP. The SIP revision consists of removing from the Pennsylvania SIP the Commonwealth's PFC regulations, formerly located at 25 *Pa. Code* §§ 130.101–130.108, relating to the control of evaporative emissions from new and in-use PFCs. The Commonwealth requested the removal of Pennsylvania's state-specific regulations because they have been superseded by new, more stringent Federal PFC regulations, codified at 40 CFR 59.600–59.699.

The Commonwealth's PFC regulations were published October 5, 2002 (32 *Pa.B.* 4819) and limited emissions of volatile organic compounds (VOCs) into the atmosphere from the use of PFCs designed to hold gasoline. The regulations restricted the sale, supply, offer for sale, and manufacture of PFCs and spouts for sale and for use in the Commonwealth on or after January 1, 2003. The regulations were part of the Commonwealth's plan to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ground-level ozone since VOCs are a precursor to the formation of ground-level ozone, and high concentrations of ground-level ozone are a serious public health and welfare threat. The PFC regulations were approved as a SIP revision by EPA on December 8, 2004. 69 FR 70893. Following the regulations' approval into the Pennsylvania SIP, the PFC regulations were included as a VOC control measure in Redesignation Requests and Maintenance Plans for the 1997 8-hour ozone NAAQS as well as the Attainment Demonstration for the Philadelphia Area Ozone Nonattainment Area for the 1997 8-hour ozone NAAQS.

On February 26, 2007, EPA promulgated Federal PFC requirements (72 FR 8428), which were codified at 40 CFR 59.600–59.699 and became effective nationwide beginning January 1, 2009. The Pennsylvania Environmental Quality Board (EQB) subsequently amended 25 *Pa. Code* Chapter 130 (relating to standards for products) by publishing the repeal of the PFC regulations (25 *Pa. Code* §§ 130.101–130.108) on July 14, 2012 (42 *Pa.B.* 4463). The Federal PFC regulations aim to reduce nationwide hydrocarbon emissions from containers due to evaporation, permeation, and spillage and are more stringent than those found in the Pennsylvania regulations.

II. Summary of SIP Revision

Pennsylvania compared requirements of the Commonwealth's former PFC regulations with the Federal PFC requirements (Table 1). Each of the Federal requirements is equally as stringent as, or more stringent than, the Commonwealth's PFC requirements and achieve greater emission reductions than Pennsylvania's PFC regulations:

- Pennsylvania's regulations applied only to PFCs for gasoline fuels whereas the Federal regulations apply to portable containers for diesel and kerosene as well as for gasoline fuels.
- Pennsylvania's regulations required automatic shut-off spouts whereas the Federal regulations do not require automatic shut-off spouts. In 72 FR 8428, 8500, EPA notes that automatic shut-off spouts actually increase spillage and emissions due to the wide variety of fill-hole designs on the receiving fuel tanks, resulting in the auto shut-off spouts not working well with a variety of equipment types.
- The Federal permeation and evaporation standard for PFCs of less than 0.3 grams hydrocarbons per gallon of fuel per day is 25 percent more stringent than the permeation standard of less than 0.4 grams per gallon of gasoline per day in Pennsylvania's regulations.
- Pennsylvania's regulations did not prevent cross state border sales of non-compliant PFCs, whereas the Federal requirements apply to all PFCs manufactured in or imported into the United States for use in the United States beginning January 1, 2009. This reduces the opportunity for cross-state border sales of non-compliant PFCs.

TABLE 1—COMPARISON OF PENNSYLVANIA'S AND EPA'S PFC REQUIREMENTS

Applicable VOC emission control requirement	Pennsylvania's PFC requirements	Federal PFC requirements
One Opening per Container	Required	Required.
Spout: Auto Close and Seal	Required	Required.
Spout: Auto Shut-off	Required	Not Required.
Warranty	Required	Required.
Permeation Barrier Seal	Less than 0.4 grams hydrocarbons/gallon/day	Less than 0.3 grams hydrocarbons/gallon/day.
Non-gasoline PFC Affected	No	Yes.
Applicable to All 50 States	No	Yes.

Section 110(l) of the CAA states that the EPA Administrator may not approve a revision to a SIP if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress or any other applicable requirement of the CAA. EPA finds Pennsylvania has demonstrated that repealing the Commonwealth's regulatory requirements and relying on the Federal requirements for PFCs is not contrary to section 110(l) by calculating and comparing estimated statewide VOC emissions resulting from both the Commonwealth and Federal PFC

regulations for the years 2002, 2009, and 2018 (Table 2). A more detailed description of Pennsylvania's methodology for calculating VOC emissions and EPA's evaluation can be found in the Technical Support Document (TSD) with Docket ID No. EPA–R03–OAR–2014–0298 prepared in support of this rulemaking action.

TABLE 2—COMPARISON OF VOC EMISSIONS ESTIMATES FOR FEDERAL AND PENNSYLVANIA PFC REGULATIONS

	2002	2009	2018
PA Rule VOC Emissions in tons per year (TPY)	* 12,255.32	8,923.08	6,148.05
Federal Rule VOC Emissions (in TPY)	* 12,255.32	** 7,917.66	** 3,202.11
Additional VOC Emissions Reductions (in TPY) from Federal Rule	N/A	1,005.42	2,945.94

* The 2002 actual VOC emissions estimate was used as the basis for the demonstration for both the Commonwealth and the Federal calculations because neither the Federal nor the Commonwealth regulation was in effect in 2002. *See* TSD for a more detailed explanation.

** Assumes some Commonwealth-compliant PFC containers remain in use until replaced with Federal-compliant containers as discussed in more detail in the TSD.

EPA finds the repeal of the provisions set forth in 25 *Pa. Code* §§ 130.101–130.108 and removal from the Pennsylvania SIP do not negatively affect ozone air quality because the more stringent Federal PFC requirements at 40 CFR 59.600–59.699 supersede the Commonwealth's regulations. The reductions of VOC emissions achieved through the Commonwealth's PFC regulations will be maintained and likely exceeded by the VOC emission reductions achieved through the Federal PFC requirements because the Federal regulations are more stringent.

III. Final Action

EPA is approving the revisions to the Commonwealth of Pennsylvania's SIP which remove the Commonwealth's PFC regulations because it is expected that reliance on the more stringent Federal PFC standards will ensure that emission reductions equivalent to or greater than those in the repealed Pennsylvania PFC regulations will continue to be achieved in the Commonwealth. Accordingly, it is expected that this SIP revision will not have a negative impact on the emission reductions claimed in the Pennsylvania SIP nor on Pennsylvania's attainment of the NAAQS for ozone. Thus, EPA can approve this revision in compliance with section 110(l) of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 18, 2014 without further notice unless EPA receives adverse comment by July 17, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This rulemaking action approving Pennsylvania's SIP revision, which involves removing the Commonwealth's PFC regulations because they are being superseded with the Federal PFC regulations, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 29, 2014.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by removing the entries for Chapter 130—Standards for Products, Subchapter A—Portable Fuel Containers, Sections 130.101 through 130.108.

■ 3. Section 52.2037 is amended by adding paragraph (t) to read as follows:

§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(t) On July 14, 2012, Pennsylvania repealed the provisions set forth in Sections 130.101 through 130.108 pertaining to Portable Fuel Containers. Pennsylvania's regulations in the Pennsylvania State Implementation Plan were removed because they are superseded by more stringent Federal requirements codified at 40 CFR 59.600 through 59.699, relating to control of evaporative emissions from new and in-use portable fuel containers.

[FR Doc. 2014–14027 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0366; FRL–9912–09–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Particulate Matter Limitations for Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Indiana State Implementation Plan (SIP) under the Clean Air Act (CAA). The particulate matter (PM) rules that were submitted consist of emission control requirements for coating operations along with exemptions from certain coating operations that produce minimal PM emissions. EPA is also taking no action on one section submitted by Indiana, as it pertains to a definition in an unapproved portion of Indiana's Title V regulations. Indiana submitted this request to approve PM rules on April 27, 2012. The proposed rule published in the **Federal Register** on April 16, 2014.

DATES: This final rule is effective on July 17, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2012–0366. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What actions did EPA propose to take?
II. What comments did we receive on the proposed SIP revision?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What actions did EPA propose to take?

On April 16, 2014 (79 FR 21421), EPA proposed to approve revisions to PM rules submitted on April 27, 2012, into the Indiana SIP. These revisions add PM control requirements for coating operations. The other primary revisions provide PM limit exemptions for coating operations that produce minimal PM emissions. The remaining modifications are clerical revisions that increase the lucidity of the rules without altering the PM limits.

Article 6 of 326 IAC contains Indiana's PM rules. Article 6.5 of 326 IAC contains statewide PM emission limitations except for Lake County and Article 6.8 of 326 IAC provides the PM emission limits for Lake County sources.

Specifically, EPA proposed to approve 326 IAC 6–3–1(c), 326 IAC 6.5–1–1, 326 IAC 6.5–1–2, 326 IAC 6.5–1–5, 326 IAC 6.5–1–6, 326 IAC 6.8–1–1, 326 IAC 6.8–1–2, 326 IAC 6.8–1–5, and 326 IAC 6.8–1–6. EPA also proposed to take no action on 326 IAC 6–3–1(b). Detail on each section including EPA's analysis is found in section III of the proposed rule.

II. What comments did we receive on the proposed SIP revision?

EPA received no comments during the public comment period. EPA is proceeding with approving the sections and taking no action on a section as proposed on April 16, 2014 (79 FR 21421).

III. What action is EPA taking?

EPA is approving revisions to PM rules Indiana submitted on April 27, 2012. Specifically, EPA is approving 326 IAC 6–3–1(c), 326 IAC 6.5–1–1, 326 IAC 6.5–1–2, 326 IAC 6.5–1–5, 326 IAC 6.5–1–6, 326 IAC 6.8–1–1, 326 IAC 6.8–1–2, 326 IAC 6.8–1–5, and 326 IAC 6.8–1–6 into the Indiana SIP. EPA is taking no action on 326 IAC 6–3–1(b).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 30, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.770 the table in paragraph (c) is amended by:

■ i. Revising the entries for ''Article 6. Particulate Rules''.

■ ii. Revising the entries for ''Article 6.5. Particulate Matter Limitations Except Lake County''.

■ iii. Revising the entries for ''Rule 1. General Provisions'' under the subheading entitled ''Article 6.8. Particulate Matter Limitations for Lake County''.

The revised text reads as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
*	*	*	*	*
Article 6. Particulate Rules				
Rule 2. Particulate Emission Limitations for Sources of Indirect Heating				
6–2–1	Applicability	10/21/1983	5/17/1985, 50 FR 20569.	
6–2–2	Emission limitations for facilities specified in 326 IAC 6–2–1(b).	10/21/1983	5/17/1985, 50 FR 20569.	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
6–2–3	Emission limitations for facilities specified in 326 IAC 6–2–1(c).	10/21/1983	5/17/1985, 50 FR 20569.	
6–2–4	Emission limitations for facilities specified in 326 IAC 6–2–1(d).	10/21/1983	5/17/1985, 50 FR 20569.	
Rule 3. Particulate Emission Limitations for Manufacturing Processes				
6–3–1	Applicability	6/12/2002	7/25/2005, 70 FR 42495.	Sec. 1.(a) and (b).
		4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	only Sec. 1. (c).
6–3–1.5	Definitions	6/12/2002	7/25/2005, 70 FR 42495.	
6–3–2	Particulate emission limitations, work practices, and control technologies.	6/12/2002	7/25/2005, 70 FR 42495.	
Rule 4. Fugitive Dust Emissions				
6–4–1	Applicability of rule	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 1. Definitions.
6–4–2	Emission limitations	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 2. Allowable Emissions.
6–4–3	Multiple sources of fugitive dust	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 3. Applicability.
6–4–4	Motor vehicle fugitive dust sources	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 4. Mobile Fugitive Dust Sources.
6–4–5	Measurement processes	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 5. Methods of Measurement.
6–4–6	Exceptions	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 6.
6–4–7	Compliance date	11/16/1973	10/28/1975, 40 FR 50032.	Approved as APC–20 Sec. 3(e).
Rule 7. Particulate Matter Emission Limitations for Southern Indiana Gas and Electric Company				
6–7–1	Southern Indiana Gas and Electric Company (SIGECO).	8/30/2008	11/10/2009, 74 FR 57904.	
Article 6.5. Particulate Matter Limitations Except Lake County				
Rule 1. General Provisions				
6.5–1–1	Applicability	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.5–1–1.5	Definitions	9/9/2005	3/22/2006, 71 FR 14383.	
6.5–1–2	Particulate emission limitations; modification by commissioner.	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.5–1–3	Nonattainment area particulate limitations; compliance determination.	9/9/2005	3/22/2006, 71 FR 14383.	
6.5–1–4	Compliance schedules	9/9/2005	3/22/2006, 71 FR 14383.	
6.5–1–5	Control strategies	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.5–1–6	State implementation plan revisions	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
6.5–1–7	Scope; affected counties	9/9/2005	3/22/2006, 71 FR 14383.	
	Rule 2. Clark County			
6.5–2–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–2–4	ESSROC Cement Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–2–8	Kimball Office-Borden	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–2–9	PQ Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 3. Dearborn County			
6.5–3–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–2	Anchor Glass Container Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–3	Dearborn Ready Mix, LLC	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–4	Indiana Michigan Power, Tanners Creek Plant	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–5	Laughery Gravel	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–7	Paul H. Rohe Company, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–3–8	Lawrenceburg Distillers Indiana, LLC	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 4. Dubois County			
6.5–4–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–2	Kimball Office—Jasper 15th Street	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–3	Jasper Seating Co., Inc., Plant No. 3	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–4	DMI Furniture Plant No. 5	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–5	Dubois County Farm Bureau Co-op	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–6	Forest Products No. 1	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–9	Indiana Desk Company	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–10	Indiana Dimension, Indiana Furniture Industries	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–11	Indiana Furniture Industries (Repealed)	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–15	Jasper Chair Company, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–16	Jasper Desk Company, Incorporated	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–17	Kimball Office—Jasper Cherry Street	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–18	Jasper Municipal Electric Utility	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–19	JOFCO Inc. Plants 1 and 2	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–21	Jasper Seating	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–4–24	Styline Industries, Inc. Plant #8	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 5. Howard County			
6.5–5–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
6.5–5–2	Chrysler, LLC—Kokomo Casting Plant and Kokomo Transmission Plant.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–5–5	Delco Electronics Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–5–10	Kokomo Grain Company	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–5–11	E & B Paving, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–5–16	Martin Marietta Materials, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 6. Marion County			
6.5–6–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–2	Allison Transmission	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–3	Asphalt Materials, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–5	Bunge North America (East), Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–15	Automotive Components Holdings, LLC—Indianapolis Plant.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–18	Cargill, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–22	Indiana Veneers Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–23	Citizens Thermal Energy C.C. Perry K	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–23.1	Indianapolis Power and Light Company (IPL) Harding Street Station.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–25	National Starch and Chemical Company	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–26	International Truck and Engine Corporation & Indianapolis Casting Corporation.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–28	Quemetco Inc. (RSR Corporation)	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–31	Vertellus Agriculture & Nutrition Specialties LLC.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–33	Rolls-Royce Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–34	St. Vincent's Hospital and Health Care Service	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–6–35	Belmont Waste Water Sludge Incinerator	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 7. St. Joseph County			
6.5–7–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–6	Bosch Braking Systems Corporation	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–10	RACO-Hubbell Electric Products	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–11	Reith Riley Construction Company, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–13	Holy Cross Services Corporation (Saint Mary's Campus).	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–14	Accucast Technology, LLC	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–16	University of Notre Dame du Lac	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–7–18	Walsh & Kelly, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 8. Vanderburgh County			
6.5–8–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
6.5–8–11	Nunn Milling Company, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–8–12	Land O' Lakes Purina Feed LLC	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–8–13	Southern Indiana Gas and Electric Company, Broadway Avenue Generating Station.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–8–14	Whirlpool Corporation Highway 41 North	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 9. Vigo County			
6.5–9–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–8	International Paper Company	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–10	S&G Excavating, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–11	Duke Energy Indiana, Inc.—Wabash River Generating Station.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–13	Sisters of Providence	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–15	Terre Haute Grain	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–9–17	Ulrich Chemical, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
	Rule 10. Wayne County			
6.5–10–1	General provisions	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–2	Barrett Paving Materials, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–3	Belden Wire and Cable Company	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–5	Milestone Contractors LP (Cambridge City)	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–6	Autocar LLC	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–9	Earlham College	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–11	Johns Manville International, Inc.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–12	Joseph H. Hill Co.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–13	Land O' Lakes Purina Feed LLC	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–14	Milestone Contractors Richmond	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–15	Richmond Power & Light—Whitewater Valley Generating Station.	2/22/2008	4/30/2008, 73 FR 23356.	
6.5–10–16	Richmond State Hospital	2/22/2008	4/30/2008, 73 FR 23356.	
	Article 6.8. Particulate Matter Limitations for Lake County			
	Rule 1. General Provisions			
6.8–1–1	Applicability	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.8–1–1.5	Definitions	9/9/2005	3/22/2006, 71 FR 14383.	
6.8–1–2	Particulate emission limitations; modification by commissioner.	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.8–1–3	Compliance determination	9/9/2005	3/22/2006, 71 FR 14383.	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
6.8–1–4	Compliance schedules	9/9/2005	3/22/2006, 71 FR 14383.	
6.8–1–5	Control strategies	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.8–1–6	State implementation plan revisions	4/20/2012	6/17/2014, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
6.8–1–7	Scope	2/22/2008	4/30/2008, 73 FR 23356.	

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[FR Doc. 2014–14119 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0245; FRL–9912–22–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to Delaware's Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). These amendments will bring Delaware's ambient air quality standards for sulfur dioxide (SO_2), ozone, nitrogen dioxide (NO_2), lead, and particulate matter (PM) up to date with current Federal requirements. EPA is approving these SIP revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on August 18, 2014without further notice, unless EPA receives adverse written comment by July 17, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0245 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0245, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0245. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 17, 2014, the State of Delaware submitted a formal SIP revision amending 7 Del. Admin. Code 1103, ''Ambient Air Quality Standards.'' These amendments will bring the regulatory standards for SO_2, ozone, NO_2, lead, and PM up to date with current Federal requirements.

The CAA specifies that EPA must reevaluate the appropriateness of each of the national ambient air quality standards (NAAQS) every five years. As part of the process, EPA reviewed the latest health-based research and determined that several NAAQS revisions were necessary to protect public health and welfare.

EPA revised the 8-hour ozone primary and secondary standards to a level of 0.075 parts per million (ppm) to provide increased protection for children and other at-risk populations against an array of ozone-related adverse health effects. These standards are based on the 3-year average of the annual fourth-highest daily maximum 8-hour concentration. EPA promulgated these NAAQS for ozone on March 27, 2008 (73 FR 16436).

EPA revised the primary lead standard to 0.15 micrograms per cubic meter (μg/m^3) to improve health protection for at-risk groups, especially children. The secondary standard was also revised to 0.15 μg/m^3 to afford increased protection for the environment. EPA promulgated these primary and secondary NAAQS for lead on November 12, 2008 (73 FR 66964).

EPA established the primary 1-hour SO_2 NAAQS at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations on June 22, 2010 (75 FR 35520). This revised standard will improve public health protection, especially for children, the elderly, and people with asthma. EPA is retaining the current secondary 3-hour SO_2 NAAQS of 0.5 ppm.

EPA established the 1-hour NO_2 NAAQS at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, on February 9, 2010 (75 FR 6474). EPA is retaining the current primary and secondary annual average NO_2 NAAQS of 53 ppb.

With regard to the primary (health-based) standards for fine particulate matter ($PM_{2.5}$), EPA revised the annual $PM_{2.5}$ standard by lowering the level to 12.0 μg/m^3 and retaining the 24-hour $PM_{2.5}$ standard at a level of 35 μg/m^3, on January 15, 2013 (78 FR 3086). EPA also retained the existing 24-hour coarse particle (PM_{10}) primary and secondary standards set at a level of 150 μg/m^3.

II. Summary of SIP Revision

The SIP revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on February 17, 2014, consists of amendments to 7 Del Admin. Code 1103, which includes the revised ambient air quality standards for SO_2, ozone, NO_2, lead, and PM. The SIP revision is consistent with the current NAAQS. The SIP revision also includes amendments to the definitions of primary and secondary air quality standards. In addition, the SIP revision includes updated test methods and emission standards in order to be up to date with current Federal requirements.

III. Final Action

EPA is approving the SIP revision pertaining to the amendments of Delaware's ambient air quality standards since the SIP revision is consistent with the NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 18, 2014 without further notice unless EPA receives adverse comment by July 17, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it

is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action, pertaining to the amendments of Delaware's ambient air quality standards, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: June 2, 2014.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended under 7 DNREC, Code 1103 by revising entries for Sections 1.0, 4.0, 6.0, 8.0. 10.0, and 11.0 to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/Subject	State effective date	EPA Approval date	Additional explanation
* *	*	*	* *	*
1103 Ambient Air Quality Standards				
Section 1.0	General Provisions	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
* *	*	*	* *	*
Section 4.0	Sulfur Dioxide	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
* *	*	*	* *	*
Section 6.0	Ozone	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
Section 8.0	Nitrogen Dioxide	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
Section 10.0	Lead	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
Section 11.0	PM_{10} and $PM_{2.5}$ Particulates	01/11/14	06/17/14 [*Insert page number where the document begins*].	Revised sections.
* *	*	*	* *	*

* * * * *

[FR Doc. 2014–14029 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1599–N]

RIN 0938–ZB17

Medicare Program; Additional Extension of the Payment Adjustment for Low-Volume Hospitals and the Medicare-Dependent Hospital (MDH) Program Under the Hospital Inpatient Prospective Payment Systems (IPPS) for Acute Care Hospitals for Fiscal Year 2014

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Extension of a Payment Adjustment and a Program.

SUMMARY: This document announces changes to the payment adjustment for low-volume hospitals and to the Medicare-dependent hospital (MDH) program under the hospital inpatient prospective payment systems (IPPS) for the second half of FY 2014 (April 1, 2014 through September 30, 2014) in accordance with sections 105 and 106, respectively, of the Protecting Access to Medicare Act of 2014 (PAMA).

DATES: *Effective Date:* June 12, 2014.

Applicability Dates: The provisions described in this document are applicable for discharges on or after April 1, 2014 and on or before September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Michele Hudson, (410) 786–5490. Maria Navarro, (410) 786–4553. Shevi Marciano, (410) 786–2874.

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 2014, the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93) was enacted. Section 105 of PAMA extends changes to the payment adjustment for low-volume hospitals for an additional year, through March 31, 2015, that is, through the first 6 months of fiscal year (FY) 2015. Section 106 of PAMA extends the Medicare-dependent, small rural hospital (MDH) program for an additional year, through March 31, 2015, that is, through the first 6 months of FY 2015. This document addresses payment for these programs only for the second half of FY 2014 (April 1, 2014 through September 30, 2014). We proposed to implement the statutory changes for the first half of FY 2015 (October 1, 2014 through March 31, 2015) in the FY 2015 IPPS/LTCH PPS proposed rule that appeared in the May 15, 2014 **Federal Register**.

II. Provisions of the Document

A. Extension of the Payment Adjustment for Low-Volume Hospitals

1. Background

Section 1886(d)(12) of the Social Security Act (the Act) provides for an additional payment to qualifying low-volume hospitals that are paid under the Inpatient Prospective Payment Systems (IPPS) beginning in FY 2005. Sections 3125 and 10314 of the Affordable Care Act provided for a temporary change in the low-volume hospital payment policy for FYs 2011 and 2012. Section 605 of the American Taxpayer Relief Act of 2012 (ATRA) extended, for FY 2013, the temporary changes in the low-volume hospital payment policy provided for in FYs 2011 and 2012 by the Affordable Care Act. Section 1105 of the Pathway for SGR Reform Act of 2013 extended, for the first 6 months of FY 2014 (that is, through March 31, 2014), the temporary changes in the low-volume hospital payment policy originally provided for by the Affordable Care Act and extended through subsequent legislation.

We addressed the extension of the temporary changes to the low-volume hospital payment policy through March 31, 2014 under the Pathway for SGR Reform Act in an interim final rule with comment period (IFC) that appeared in the March 18, 2014 **Federal Register** (79 FR 15022 through 15025) (hereinafter referred to as the FY 2014 IPPS IFC). In the FY 2014 IPPS IFC, we also amended the regulations at 42 CFR 412.101 to reflect the extension of the temporary changes to the qualifying criteria and the payment adjustment for low-volume hospitals through March 31, 2014 in accordance with section 1105 of the Pathway for SGR Reform Act.

2. Low-Volume Hospital Payment Adjustment Under the Temporary Changes (Originally Provided by the Affordable Care Act) for FYs 2011 Through 2013 and FY 2014 Discharges Occurring Before April 1, 2014

For FYs 2011 and 2012, sections 3125 and 10314 of the Affordable Care Act expanded the definition of low-volume hospital and modified the methodology for determining the payment adjustment for hospitals meeting that definition. Specifically, the provisions of the Affordable Care Act amended the qualifying criteria for low-volume hospitals under section 1886(d)(12)(C)(i) of the Act to specify that, for FYs 2011 and 2012, a hospital qualifies as a low-volume hospital if it is more than 15 road miles from another subsection (d) hospital and has less than 1,600 discharges of individuals entitled to, or enrolled for, benefits under Part A during the fiscal year. In addition, section 1886(d)(12)(D) of the Act, as added by the Affordable Care Act, provides that the low-volume hospital payment adjustment (that is, the percentage increase) is to be determined ''using a continuous linear sliding scale ranging from 25 percent for low-volume hospitals with 200 or fewer discharges of individuals entitled to, or enrolled for, benefits under Part A in the fiscal year to 0 percent for low-volume hospitals with greater than 1,600 discharges of such individuals in the fiscal year.'' We revised the regulations at 42 CFR 412.101 to reflect the changes to the qualifying criteria and the payment adjustment for low-volume hospitals according to the provisions of the Affordable Care Act in the FY 2011 IPPS/LTCH PPS final rule (75 FR 50238 through 50275 and 50414). In addition, we also defined, at § 412.101(a), the term ''road miles'' to mean ''miles'' as defined at § 412.92(c)(1), and clarified existing regulations that a hospital must continue to qualify as a low-volume hospital in order to receive the payment adjustment in that year (that is, it is not based on a one-time qualification).

Section 605 of the ATRA extended the temporary changes in the low-volume hospital payment policy provided for in FYs 2011 and 2012 by the Affordable Care Act for FY 2013, that is, for discharges occurring before October 1, 2013. We announced the extension of the Affordable Care Act amendments to the low-volume hospital payment adjustment requirements under section 1886(d)(12) of the Act for FY 2013 pursuant to section 605 of the ATRA in a notice of extension that appeared in the March 7, 2013 **Federal Register** (78 FR 14689 through 14694).

Section 1105 of the Pathway for SGR Reform Act extended, for the first 6 months of FY 2014 (that is, through March 31, 2014), the temporary changes in the low-volume hospital payment policy originally provided by the Affordable Care Act. In the FY 2014 IPPS IFC (79 FR 15022 through 15025), we implemented the extension of the Affordable Care Act amendments to the low-volume hospital payment policy through March 31, 2014 under the Pathway for SGR Reform Act. In that IFC, we also amended the regulations at 42 CFR 412.101 to reflect the extension of the temporary changes to the qualifying criteria and the payment adjustment for low-volume hospitals through March 31, 2014.

To implement the extension of the temporary change in the low-volume hospital payment policy through the first half of FY 2014 (that is, for discharges occurring through March 31, 2014), in the FY 2014 IPPS IFC we updated the discharge data source used to identify qualifying low-volume hospitals and calculate the payment adjustment (percentage increase) for FY 2014 discharges occurring before April 1, 2014. Specifically, for FY 2014 discharges occurring before April 1, 2014, consistent with our historical policy, qualifying low-volume hospitals and their payment adjustment were determined using Medicare discharge data from the March 2013 update of the FY 2012 MedPAR file, as these data were the most recent data available at the time of the development of the FY 2014 payment rates and factors established in the FY 2014 IPPS/LTCH PPS final rule. Table 14 of the FY 2014 IPPS IFC (which is available only through the Internet on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/index.html*) lists the hospitals with fewer than 1,600 Medicare discharges based on that Medicare discharge data and their potential FY 2014 low-volume payment adjustment (for hospitals that also meet the mileage criterion specified at 42 CFR 412.101(b)(2)(ii)).

Similar to our previously established procedure, in the FY 2014 IPPS IFC we implemented the following procedure for a hospital to request low-volume hospital status for FY 2014 discharges occurring before April 1, 2014. In order for the applicable low-volume percentage increase to be applied to payments for its discharges beginning on or after October 1, 2013 (that is, the beginning of FY 2014), a hospital must have made its request for low-volume hospital status in writing and this request must have been received by its Medicare Administrative Contractor (MAC) no later than March 31, 2014. Requests for low-volume hospital status for FY 2014 discharges occurring before April 1, 2014 that were received by the MAC after March 31, 2014 were to be processed by the MAC; however, the hospital would not be eligible to have the low-volume hospital payment adjustment at § 412.101(c)(2) applied to its FY 2014 discharges occurring before April 1, 2014. We also explained that the low-volume hospital payment adjustment at § 412.101(c)(2) would not be prospectively applied in determining payments for the hospital's FY 2014 discharges, because, at that time, beginning on April 1, 2014, the temporary changes to the low-volume hospital payment policy provided for by the Pathway for SGR Reform Act would have expired and the low-volume hospital definition and payment methodology would have reverted back to the statutory requirements that were in effect prior to the amendments made by the Affordable Care Act. If the hospital would have otherwise met the criteria to qualify as a low-volume hospital under the temporary changes to the low-volume hospital policy, the MAC was to notify the hospital that, although the hospital met the low-volume hospital criteria set forth at § 412.101(b)(2)(ii) and would have had low-volume hospital status within 30 days from the date of the determination, the hospital did not meet the criteria for low-volume hospital status applicable for discharges occurring on or after April 1, 2014 at that time (79 FR 15022 through 15025).

3. Implementation of the Extension of the Temporary Changes to the Low-Volume Hospital Payment Adjustment for FY 2014 Discharges Occurring on or After April 1, 2014 Through September 30, 2014

Section 105 of the PAMA (Pub. L. 113–93) extends, for an additional year (that is, through March 31, 2015), the temporary changes in the low-volume hospital payment policy provided for in FYs 2011 and 2012 by the Affordable Care Act and extended through FY 2013 by the ATRA and the first half of FY 2014 by the Pathway for SGR Reform Act. Prior to the enactment of the PAMA, beginning with discharges occurring on or after April 1, 2014, the low-volume hospital definition and payment adjustment methodology was to return to the policy established under statutory requirements that were in effect prior to the amendments made by the Affordable Care Act as extended by subsequent legislation. Section 105 of the PAMA extends the Affordable Care Act amendments to the low-volume hospital payment policy by amending sections 1886(d)(12)(B), (C)(i), and (D) of the Act. Specifically, section 105 of the PAMA amends section 1886(d)(12)(B) of the Act by striking ''in the portion of fiscal year 2014 beginning on April 1, 2014, fiscal year 2015, and subsequent fiscal years'' and inserting ''in fiscal year 2015 (beginning on April 1, 2015), fiscal year 2016, and subsequent fiscal years''; amends section 1886(d)(12)(C)(i) by striking ''fiscal years 2011, 2012, and 2013, and the portion of fiscal year 2014 before'' and inserting ''fiscal years 2011 through 2014 and fiscal year 2015 (before April 1, 2015),'' each place it appears; and amends section 1886(d)(12)(D) of the Act by striking ''fiscal years 2011, 2012, and 2013, and the portion of fiscal year 2014 before April 1, 2014,'' and inserting ''fiscal years 2011 through 2014 and fiscal year 2015 (before April 1, 2015),''.

In the FY 2015 IPPS/LTCH PPS proposed rule (79 FR 28090 through 28092), we proposed to implement the extension of the temporary changes to the low-volume hospital payment policy for the first half of FY 2015 and stated our intent to address the extension of those changes for the second half of FY 2014 (that is, from April 1, 2014 through September 30, 2014) as provided for by the PAMA in a forthcoming **Federal Register** notice. In that proposed rule, we also proposed to make conforming changes to the existing regulations text at § 412.101 to reflect the extension of the changes to the qualifying criteria and the payment adjustment methodology for low-volume hospitals through the first half of FY 2015 (that is, through March 31, 2015) in accordance with section 105 of the PAMA. Specifically, we proposed to revise paragraphs (b)(2)(i), (b)(2)(ii), (c)(1), (c)(2), and (d) of § 412.101. Under these proposed changes to § 412.101, beginning with FY 2015 discharges occurring on or after April 1, 2015, consistent with section 1886(d)(12) of the Act, as amended, the low volume hospital qualifying criteria and payment adjustment methodology would revert to that which was in effect prior to the amendments made by the Affordable Care Act and subsequent legislation (that is, the low-volume hospital payment policy in effect for FYs 2005 through 2010).

To implement the extension of the temporary change in the low-volume hospital payment policy for the last 6 months of FY 2014 provided for by the PAMA, we are using the same data source to identify qualifying low-volume hospitals and calculate the payment adjustment (percentage increase) that was used to identify qualifying low-volume hospitals and calculate the payment adjustment for discharges that occurred during the first half of FY 2014 (that is, FY 2012 Medicare discharge data from the March 2013 update of the MedPAR files), as these data were the most recent data available at the time of the development of the FY 2014 payment rates and factors established in the FY 2014 IPPS/LTCH PPS final rule. This is consistent with our policy at § 412.101(b)(2)(ii), which states that a hospital's Medicare discharges from the most recently available MedPAR data, as determined by CMS, are used to determine if the hospital meets the discharge criteria to

receive the low-volume payment adjustment in the current year. Accordingly, in Table 14 of this document (which is available only through the Internet on the CMS Web site at *http://www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp*), we are providing the list of the subsection (d) hospitals with fewer than 1,600 Medicare discharges based on the March 2013 update of the FY 2012 MedPAR files and their FY 2014 low-volume payment adjustment, if eligible (Table 14 was originally made available in connection with the FY 2014 IPPS IFC that appeared in the March 18, 2014 **Federal Register**). We note that the list of hospitals with fewer than 1,600 Medicare discharges in Table 14 does not reflect whether or not the hospital meets the mileage criterion. A hospital also must be located more than 15 road miles from any other subsection (d) hospital in order to qualify for a low-volume hospital payment adjustment for FY 2014 discharges occurring on or after April 1, 2014.

A hospital that qualified for the low-volume hospital payment adjustment for its FY 2014 discharges occurring on or after October 1, 2013 through March 31, 2014 does not need to notify its MAC and will continue to receive the applicable low-volume hospital payment adjustment for its FY 2014 discharges occurring on or after April 1, 2014, without reapplying, provided it continues to meet the mileage criterion (that is, the hospital continues to be located more than 15 road miles from any other subsection (d) hospital).

For a hospital that did not qualify for the low-volume hospital payment adjustment for its FY 2014 discharges occurring on or after October 1, 2013 through March 31, 2014, in order to receive a low-volume hospital payment adjustment under § 412.101, consistent with our previously established procedure, we are continuing to require a hospital to notify and provide documentation to its MAC that it meets the mileage criterion. Specifically, the hospital must make its request for low-volume hospital status in writing to its MAC and provide documentation that it meets the mileage criterion, so that the applicable low-volume percentage increase is applied to payments for its discharges occurring on or after April 1, 2014. This written request must be received by its MAC no later than June 30, 2014 in order for the applicable low-volume percentage increase to be applied to payments for the hospital's discharges beginning on or after April 1, 2014. In addition, a hospital that missed the request deadline for FY 2014 discharges occurring before April 1, 2014 in the FY 2014 IPPS IFC but qualified for the low-volume payment adjustment in FY 2013 may receive a low-volume payment adjustment for its FY 2014 discharges occurring on or after April 1, 2014 without reapplying if it continues to meet the Medicare discharge criterion, based on the March 2013 update of the FY 2012 MedPAR data (shown in Table 14), and the mileage criterion. However, the hospital must send written verification that is received by its MAC no later than June 30, 2014, that it continues meet the mileage criterion, that is, it is located more than 15 miles from any other subsection (d) hospital. This procedure is similar to the procedures we used to implement prior extensions of the Affordable Care Act amendments to the low-volume hospital payment policy in the FY 2014 IPPS IFC (79 FR 15024 through 150025) and the FY 2013 IPPS notice of extension (78 FR 14689).

For requests for low-volume hospital status for FY 2014 discharges occurring on or after April 1, 2014 that are received by the MAC after June 30, 2014, if the hospital meets the criteria to qualify as a low-volume hospital, the MAC will apply the applicable low-volume adjustment in determining payments to the hospital's FY 2014 discharges occurring on or after April 1, 2014 prospectively effective within 30 days of the date of the MAC's low-volume status determination. This procedure is similar to the policy we established for a hospital to request low-volume hospital status for FY 2013 in the FY 2013 IPPS notice of extension (78 FR 14689), as well as for FYs 2011 and 2012 in the FY 2011 IPPS/LTCH PPS final rule (75 FR 50274 through 50275) and the FY 2012 IPPS/LTCH PPS final rule (76 FR 51680), respectively.

The use of a Web-based mapping tool, such as MapQuest, as part of documenting that the hospital meets the mileage criterion for low-volume hospitals, is acceptable. The MAC will determine if the information submitted by the hospital, such as the name and street address of the nearest hospitals, location on a map, and distance (in road miles, as defined in the regulations at § 412.101(a)) from the hospital requesting low-volume hospital status, is sufficient to document that the hospital requesting low-volume hospital status meets the mileage criterion. The MAC may follow up with the hospital to obtain additional necessary information to determine whether or not the hospital meets the low-volume hospital mileage criterion. In addition, the MAC will refer to the hospital's Medicare discharge data determined by CMS (as provided in Table 14, which is available only through the Internet on the CMS Web site at *http://www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp*) to determine whether or not the hospital meets the discharge criterion, and the amount of the payment adjustment for FY 2014 discharges occurring on or after April 1, 2014, once it is determined that the mileage criterion has been met. The Medicare discharge data shown in Table 14, as well as the Medicare discharge data for all subsection (d) hospitals with claims in the March 2013 update of the FY 2012 MedPAR file, is also available on the CMS Web site for hospitals to view the count of their Medicare discharges. The data can be used to help hospitals decide whether or not to apply for low-volume hospital status.

Program guidance on the systems implementation of these provisions, including changes to PRICER software used to make payments, will be announced in an upcoming transmittal. As stated previously, we proposed to make conforming changes to the existing regulations text at § 412.101 to reflect the extension of the changes to the qualifying criteria and the payment adjustment methodology for low-volume hospitals through the first half of FY 2015 (that is, through March 31, 2015) in accordance with section 105 of the PAMA.

B. Extension of the Medicare-Dependent, Small Rural Hospital (MDH) Program

1. Background

Section 1885(d)(5)(G) of the Act provides special payment protections, under the IPPS, to Medicare-dependent, small rural hospitals (MDHs). (For additional information on the MDH program and the payment methodology, we refer readers to the FY 2012 IPPS/LTCH PPS final rule (76 FR 51683 through 51684). As we discussed in the FY 2011 IPPS/LTCH PPS final rule (75 FR 50287) and in the FY 2012 IPPS/LTCH PPS final rule (76 FR 51683 through 51684), section 3124 of the Affordable Care Act extended the expiration of the MDH program from the end of FY 2011 (that is, for discharges occurring before October 1, 2011) to the end of FY 2012 (that is, for discharges occurring before October 1, 2012). Under prior law, as specified in section 5003(a) of Pub. L. 109–171 (DRA 2005), the MDH program was to be in effect through the end of FY 2011 only.

Since the extension of the MDH program through FY 2012 provided by section 3124 of the ACA, the MDH program has been further extended multiple times. First, section 606 of the

ATRA extended the MDH program through FY 2013 (that is, for discharges occurring before October 1, 2013). (For additional information on the extension of the MDH program for FY 2013 pursuant to section 606 of the ATRA, see the notice of extension that appeared in the March 7, 2013 **Federal Register** (78 FR 14691 through 14692).) Second, section 1106 of the Pathway for SGR Reform Act of 2013 extended the MDH program through the first half of FY 2014 (that is, for discharges occurring before April 1, 2014). In the FY 2014 IPPS IFC, we discussed the 6-month extension of the MDH program from October 1, 2013 through March 31, 2014 provided by the Pathway for SGR Reform Act of 2013 (79 FR 15025 through 15027). In that IFC, we explained how providers may be affected by this extension of the program and described the steps to reapply for MDH status for FY 2014, as applicable. Generally, a provider that was classified as an MDH as of September 30, 2013 was reinstated as an MDH effective October 1, 2013, with no need to reapply for MDH classification. However, if the MDH had classified as a sole community hospital (SCH) or cancelled its rural classification under § 412.103(g) effective on or after October 1, 2013, the effective date of MDH status may not be retroactive to October 1, 2013.

Lastly, and under current law, section 106 of the PAMA provides for a 1-year extension of the MDH program effective from April 1, 2014 to March 31, 2015. Specifically, section 106 of the PAMA amended sections 1886(d)(5)(G)(i) and 1886(d)(5)(G)(ii)(II) of the Act by striking ''April 1, 2014'' and inserting ''April 1, 2015''. Section 106 of the PAMA also made conforming amendments to sections 1886(b)(3)(D)(i) and 1886(b)(3)(D)(iv) of the Act. We note that because the extension provided by section 106 of the PAMA spans 2 fiscal years, that is, FY 2014 and FY 2015, we only address the 6-month extension in FY 2014 in this document. The extension of the MDH program through the first half of FY 2015 was addressed in the FY 2015 IPPS/LTCH PPS proposed rule (79 FR 28104 through 28105), where we also proposed to make the conforming changes to the regulations at § 412.108(a)(1) and (c)(2)(iii) to reflect the statutory extension of the MDH program through the first half FY 2015 as provided by section 106 of the PAMA.

2. Provisions of the PAMA

Prior to the enactment of the PAMA, under section 1106 of the Pathway to SGR Reform Act of 2013, the MDH program authorized by section 1886(d)(5)(G) of the Act was set to expire midway through FY 2014 (that is, March 31, 2014). Section 106 of the PAMA amended sections 1886(d)(5)(G)(i) and 1886(d)(5)(G)(ii)(II) of the Act to provide for an additional 1-year extension of the MDH program, effective from April 1, 2014 through March 31, 2015. Section 106 of the PAMA also made conforming amendments to sections 1886(b)(3)(D)(i) and 1886(b)(3)(D)(iv) of the Act.

As noted previously, this document addresses the portion of the MDH program extension that includes the last 6 months of FY 2014 as provided by section 106 of PAMA. Consistent with our implementation of previous MDH extensions (see 79 FR 15025 through 15027 and 78 FR 14691 through 14692), generally, providers that were classified as MDHs as of the anticipated expiration of the MDH provision (that is, as of March 31, 2014) will be reinstated as MDHs effective April 1, 2014 with no need to reapply for MDH classification. However, in the following two situations, the effective date of MDH status may not be retroactive to April 1, 2014.

a. MDHs That Classified as Sole Community Hospitals (SCHs) on or After April 1, 2014

Our regulations at § 412.92(b)(2)(v) would have permitted an MDH that applied for reclassification as an SCH by March 1, 2014 to have such status be effective on April 1, 2014. MDHs that applied by the March 1, 2014 deadline and were approved for SCH classification received SCH status effective April 1, 2014. Hospitals that applied for SCH status after the March 1, 2014 SCH application deadline would have been subject to the usual effective date for SCH classification, that is, 30 days after the date of CMS' written notification of approval, resulting in an effective date of SCH status after April 1, 2014.

In order to be reclassified as an MDH, these hospitals must first cancel their SCH status according to § 412.92(b)(4), because a hospital cannot be both an SCH and an MDH, and then reapply and be approved for MDH status under § 412.108(b). Under § 412.92(b)(4), a hospital's cancellation of its SCH classification becomes effective no later than 30 days after the date the hospital submits its request. Under § 412.108(b)(3), the Medicare contractor will make a determination regarding whether a hospital meets the criteria for MDH status and notify the hospital within 90 days from the date that it receives the hospital's request and all of the required documentation. Under § 412.108(b)(4), a determination of MDH status made by the Medicare contractor is effective 30 days after the date the fiscal intermediary (**Note:** fiscal intermediaries have been replaced by Medicare Administrative Contractors (MACs)) provides written notification to the hospital.

b. MDHs That Requested a Cancellation of Their Rural Classification Under § 412.103(b)

One of the criteria to be classified as an MDH is that the hospital must be located in a rural area. To qualify for MDH status, some MDHs reclassified from an urban to a rural hospital designation, under the regulations at § 412.103(b). With the anticipated March 31, 2014 expiration of the MDH provision prior to the enactment of the PAMA, some of these providers may have requested a cancellation of their rural classification. Therefore, in order to qualify for MDH status, these hospitals must again request to be reclassified as rural under § 412.103(b) and must also reapply for MDH status under § 412.108(b).

As noted previously, under § 412.108(b)(3), the Medicare contractor will make a determination regarding whether a hospital meets the criteria for MDH status and notify the hospital within 90 days from the date that it receives the hospital's request and all of the required documentation. Under § 412.108(b)(4), a determination of MDH status made by the Medicare contractor is effective 30 days after the date the fiscal intermediary (MAC) provides written notification to the hospital.

Any provider that falls within either of the two exceptions listed previously may not have its MDH status automatically reinstated effective April 1, 2014. That is, if a provider reclassified to SCH status or cancelled its rural status effective April 1, 2014, its MDH status will not be retroactive to April 1, 2014, but will instead be applied prospectively, based on the date the hospital is notified that it again meets the requirements for MDH status, in accordance with § 412.108(b)(4), after the hospital reapplies for MDH status. Once granted, this MDH status will remain in effect through March 31, 2015, subject to the requirements at § 412.108. However, if a provider reclassified to SCH status or cancelled its rural status effective on a date later than April 1, 2014, MDH status will be reinstated effective from April 1, 2014, but will end on the date on which the provider changed its status to an SCH or cancelled its rural status. Those hospitals may also reapply for MDH

status to be effective again 30 days from the date the hospital is notified of the determination, in accordance with § 412.108(b)(4). Once granted, this status will remain in effect through March 31, 2015 subject to the requirements at § 412.108. Providers that fall within either of the two exceptions, in order to reclassify as an MDH, will have to reapply for MDH status according to the classification procedures in 42 CFR 412.108(b). Specifically, the regulations at § 412.108(b) require the following:

- The hospital submit a written request along with qualifying documentation to its contractor to be considered for MDH status.
- The contractor make its determination and notify the hospital within 90 days from the date that it receives the request for MDH classification and all required documentation.
- The determination of MDH status be effective 30 days after the date of the contractor's written notification to the hospital.

The following are examples of various scenarios that illustrate how and when MDH status under section 106 of the PAMA will be determined for hospitals that were MDHs as of the anticipated March 31, 2014 expiration of the MDH program:

Example 1: Hospital A was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Hospital A retained its rural classification and did not reclassify as an SCH. Hospital A's MDH status will be automatically reinstated retroactively to April 1, 2014.

Example 2: Hospital B was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Per the regulations at § 412.92(b)(2)(v) and in anticipation of the expiration of the MDH program, Hospital B applied for reclassification as an SCH by March 1, 2014, and was approved for SCH status effective on April 1, 2014. Hospital B's MDH status will not be automatically reinstated. In order to reclassify as an MDH, Hospital B must first cancel its SCH status, in accordance with § 412.92(b)(4), and reapply for MDH status under the regulations at § 412.108(b).

Example 3: Hospital C was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Hospital C missed the application deadline of March 1, 2014 for reclassification as an SCH under the regulations at § 412.92(b)(2)(v) and was not eligible for its SCH status to be effective as of April 1, 2014. The MAC approved Hospital C's request for SCH status effective May 16, 2014. Hospital C's MDH status will be reinstated but only for the portion of time during which it met the criteria for MDH status. Hospital C's MDH status will be reinstated effective April 1, 2014 through May 15, 2014, and its MDH status will be cancelled effective May 16, 2014. In order to reclassify as an MDH, Hospital C must cancel its SCH status, in accordance § 412.92(b)(4), and reapply for MDH status under the regulations at § 412.108(b).

Example 4: Hospital D was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. In anticipation of the expiration of the MDH program, Hospital D requested that its rural classification be cancelled per the regulations at § 412.103(g). Hospital D's rural classification was cancelled effective April 1, 2014. Hospital D's MDH status will not be automatically reinstated. In order to reclassify as an MDH, Hospital D must first request to be reclassified as rural under § 412.103(b) and must reapply for MDH status under § 412.108(b).

Example 5: Hospital E was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. In anticipation of the expiration of the MDH program, Hospital E requested that its rural classification be cancelled per the regulations at § 412.103(g). Hospital E's rural classification is cancelled effective June 1, 2014. Hospital E's MDH status will be reinstated but only for the period of time during which it met the criteria for MDH status. Since Hospital E cancelled its rural status and is classified as urban effective June 1, 2014, MDH status will only be reinstated effective April 1, 2014 through May 31, 2014, and will be cancelled effective June 1, 2014. In order to reclassify as an MDH, Hospital E must first request to be reclassified as rural under § 412.103(b) and must reapply for MDH status under § 412.108(b).

Finally, we note that hospitals continue to be bound by § 412.108(b)(4)(i) through (iii) to report a change in the circumstances under which the status was approved. Thus, if a hospital's MDH status has been extended and it no longer meets the requirements for MDH status, it is required under § 412.108(b)(4)(i) through (iii) to make such a report to its MAC. Additionally, under the regulations at § 412.108(b)(5), Medicare contractors are required to evaluate on an ongoing basis whether or not a hospital continues to qualify for MDH status.

As noted previously, we proposed to make conforming changes to the regulations at § 412.108(a)(1) and (c)(2)(iii) to reflect the statutory extension of the MDH program through March 31, 2015 as provided by section 106 of the PAMA in the FY 2015 IPPS/LTCH PPS proposed rule (79 FR 28104 through 28105). Program guidance on the systems implementation of these provisions, including changes to PRICER software used to make payments, will be announced in an upcoming transmittal. A provider affected by the MDH program extension will receive a notice from its MAC detailing its status in light of the MDH program extension.

We also note that the same approach for the additional payment for uncompensated care under § 412.106(g) discussed in the FY 2014 IPPS IFC (79 FR 15027) will apply in determining MDH payments for FY 2014 discharges occurring on or after April 1, 2014. That is, a pro rata share of the uncompensated care payment amount for that period will be included as part of the Federal rate payment in the comparison of payments under the hospital-specific rate and the Federal rate. Therefore, in making this comparison at cost report settlement, we will include the pro rata share of the uncompensated care payment amount that reflects the period of time the hospital was paid under the MDH program for its FY 2014 discharges occurring on or after April 1, 2014 and before September 30, 2014. This pro rata share will be determined based on the proportion of the applicable Federal fiscal year that is included in that cost reporting period. (For additional information on our implementation of the additional payment for uncompensated care under § 412.106(g), refer to the FY 2014 IPPS/LTCH PPS final rule (78 FR 50620 through 50647) and the interim final rule with comment period titled ''FY 2014 IPPS Changes to Certain Cost Reporting Procedures Related to Disproportionate Share Hospital Uncompensated Care Payments'' that appeared in the October 3, 2013 **Federal Register** (78 FR 61191 through 61194).)

3. The Treatment of MDHs Under the Hospital Readmissions Reduction Program and the Hospital Value-Based Purchasing (VBP) Program for FY 2014

The Hospital Readmissions Reduction Program at section 1886(q) of the Act requires the Secretary to reduce payments to applicable hospitals with excess readmissions effective for discharges beginning on or after October 1, 2012. Section 1886(o) of the Act requires the Secretary to establish a hospital value-based purchasing program (the Hospital Value-Based Purchasing (VBP) Program), effective for discharges beginning on or after October 1, 2012, under which value-based incentive payments are made in a fiscal year to hospitals that meet performance standards established for a performance period for such fiscal year. In general, the adjustments under both the Hospital Readmissions Reduction Program and Hospital VBP Program are applicable to MDHs (except when certain exclusions from the Hospital VBP Program are met).

The payment methodology under the Hospital Readmissions Reduction

Program and Hospital VBP Program applies each program's adjustment factors respectively to the ''base operating DRG payment amount.'' (For additional information on the calculation of the adjustment factor and payment methodology under the Hospital Readmissions Reduction Program, refer to the FY 2013 IPPS/LTCH PPS final rule (77 FR 53374 through 53391). For additional information on the calculation of the adjustment factor and payment methodology under the Hospital VBP Program, refer to the FY 2013 IPPS/LTCH PPS final rule (77 FR 53569 through 53576).) The ''base operating DRG payment amount'' is generally defined as the wage-adjusted DRG operating payment plus any applicable new technology add-on payments (see § 412.152 and § 412.160). For years prior to FY 2014, the statutory provisions related to the definition of ''base operating DRG payment amount'' under section 1886(q) of the Act and section 1886(o) of the Act excluded the difference between an MDH's applicable hospital-specific payment (HSP) rate and the Federal payment rate (referred to as the HSP add-on) from the definition of the base operating DRG payment amount. (MDHs are paid based on the Federal rate or, if higher, the Federal rate plus 75 percent of the amount by which the Federal rate is exceeded by the updated HSP rate from certain specified base years. Thus for MDHs, the HSP add-on for these years is equal to 75 percent of the difference between the Federal rate payment and HSP rate payment. At cost report settlement, the MAC determines which of the payment options yields a higher aggregate payment for an MDH, and also determines the final HSP add-on (if applicable) for that MDH for each cost reporting period.)

The treatment of MDHs under the Hospital Readmissions Reduction Program and the Hospital VBP Program for FY 2014 was not addressed in the FY 2014 IPPS/LTCH PPS final rule because at the time of the publication of that final rule, the MDH program was set to expire at the end of FY 2013. Accordingly, the payment adjustment factors and payment methodology for FY 2014 under both the Hospital Readmissions Reduction Program and Hospital VBP Program established in that final rule were determined without regard to HSP add-on payments to MDHs. That is, for hospitals that were MDHs, the FY 2014 readmissions and value-based incentive payment adjustment factors were calculated using base operating DRG payment amounts that do not include the difference between the HSP payment rate and the Federal payment rate (as applicable). Similarly, in determining payments for MDH discharges occurring in FY 2014, the base operating DRG payment amounts currently also do not include the difference between the HSP payment rate and the Federal payment rate (as applicable).

As discussed previously, subsequent to the publication of the FY 2014 IPPS/LTCH PPS final rule, the MDH program was extended from October 1, 2013, to March 31, 2014, by section 1106 of the Pathway for SGR Reform Act (Pub. L. 113–67) and was further extended an additional year from April 1, 2014, to March 31, 2015, by section 106 of the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93). This legislation extended the MDH program by amending sections 1886(d)(5)(G)(i) and 1886(d)(5)(G)(ii)(II) of the Act and also made conforming amendments to sections 1886(b)(3)(D)(i) and 1886(b)(3)(D)(iv) of the Act. Given the extension of the MDH program for FY 2014, in this document we discuss how the payment methodology under both the Hospital Readmissions Reduction Program and Hospital VBP Program will be applied for MDH discharges occurring during FY 2014, consistent with the sections 1886(q)(2)(B)(i) and 1886(o)(7)(D)(i)(I) of the Act.

We are not revising the FY 2014 readmissions and value-based incentive payment adjustment factors that we established through notice and comment rulemaking in the FY 2014 IPPS/LTCH PPS final rule because at the time we established those factors, the MDH program was set to expire at the end of FY 2013. Therefore, the FY 2014 Readmissions Adjustment Factors in Table 15 of the FY 2014 IPPS/LTCH PPS final rule (as subsequently corrected by the FY 2014 IPPS/LTCH PPS final rule correcting document that appeared in the October 3, 2013 **Federal Register**) and the FY 2014 Hospital VBP Program Adjustment Factors in Table 16B of the FY 2014 IPPS/LTCH PPS final rule (which are only available on the Internet at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/index.html*) will remain unchanged and will continue to apply in determining payments for MDHs' discharges occurring during FY 2014.

However, because a final payment determination for an MDH's cost reporting period is not done until cost report settlement, if an MDH ultimately receives the HSP add-on (that is, its final payment is determined to be the Federal rate payment plus 75 percent of the amount by which the Federal rate is exceeded by the updated HSP rate), then additional adjustments under the Hospital Readmissions Reduction Program and Hospital VBP Program (as applicable) will be made during cost report settlement. If at cost report settlement an MDH ultimately does not receive an HSP add-on for the cost reporting period (that is, its final payment is determined to be the Federal rate payment only), then no additional adjustment (if otherwise applicable) under the Hospital Readmissions Reduction Program and Hospital VBP Program will be made.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

IV. Waiver of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment prior to a rule taking effect in accordance with section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. In addition, in accordance with section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act, we ordinarily provide a 30-day delay to a substantive rule's effective date. For substantive rules that constitute major rules, in accordance with 5 U.S.C. 801, we ordinarily provide a 60-day delay in the effective date. None of the processes or effective date requirements apply, however, when the rule in question is interpretive, a general statement of policy, or a rule of agency organization, procedure or practice. They also do not apply when the statute establishes rules to be applied, leaving no discretion or gaps for an agency to fill in through rulemaking. In addition, an agency may waive notice and comment rulemaking, as well as any delay in effective date, when the agency for good cause finds that notice and public comment on the rule as well the effective date delay are impracticable, unnecessary, or contrary to the public interest. In cases where an agency finds good cause, the agency must incorporate a statement of this finding and its reasons in the rule issued.

The policies being publicized in this document do not constitute agency rulemaking. Rather, the statute, as amended by the PAMA, has already

required that the agency make these changes, and we are simply notifying the public of the extension of the changes to the payment adjustment for low-volume hospitals and the MDH program that was effective April 1, 2014. As this document merely informs the public of these extensions, it is not a rule and does not require any notice and comment rulemaking. To the extent any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency procedure or practice, which are not subject to notice and comment rulemaking or a delayed effective date.

However, to the extent that notice and comment rulemaking or a delay in effective date or both would otherwise apply, we find good cause to waive such requirements. Specifically, we find it unnecessary to undertake notice and comment rulemaking in this instance as this document does not propose to make any substantive changes to the policies or methodologies already in effect as a matter of law, but simply applies rate adjustments under the PAMA to these existing policies and methodologies. As the changes outlined in this document have already taken effect, it would also be impracticable to undertake notice and comment rulemaking. For these reasons, we also find that a waiver of any delay in effective date, if it were otherwise applicable, is necessary to comply with the requirements of the PAMA. Therefore, we find good cause to waive notice and comment procedures as well as any delay in effective date, if such procedures or delays are required at all.

V. Regulatory Impact Analysis

A. Introduction

We have examined the impacts of this document as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. A regulatory impact analysis (RIA) must be prepared for regulatory actions with economically significant effects ($100 million or more in any 1 year). Although we do not consider this document to constitute a substantive rule or regulatory action, the changes announced in this document are ''economically'' significant, under section 3(f)(1) of Executive Order 12866, and therefore we have prepared a RIA, that to the best of our ability, presents the costs and benefits of the provisions announced in this document. In accordance with Executive Order 12866, this document has been reviewed by the Office of Management and Budget.

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small government jurisdictions. We estimate that most hospitals and most other providers and suppliers are small entities as that term is used in the RFA. The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the Small Business Administration definition of a small business (having revenues of less than $7.5 to $35.5 million in any 1 year). (For details on the latest standard for health care providers, we refer readers to page 33 of the Table of Small Business Size Standards at the Small Business Administration's Web site at *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/tableofsize/index.html*.) For purposes of the RFA, all hospitals and other providers and suppliers are considered to be small entities. Individuals and States are not included in the definition of a small entity. We believe that this document will have a significant impact on small entities. Because we acknowledge that many of the affected entities are small entities, the analysis discussed in this section would fulfill any requirement for a final regulatory flexibility analysis. In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we now define a small rural hospital as a hospital that is located outside of an urban area and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This document will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This document will not have a substantial effect on State and local governments.

Although this document merely reflects the implementation of two provisions of the PAMA and does not constitute a substantive rule, we nevertheless prepared this impact analysis in the interest of ensuring that the impacts of these changes are fully understood. The following analysis, in conjunction with the remainder of this document, demonstrates that this document is consistent with the regulatory philosophy and principles identified in Executive Order 12866 and 13563, the RFA, and section 1102(b) of the Act. The changes announced in this document will positively affect payments to a substantial number of small rural hospitals and providers, as well as other classes of hospitals and providers, and the effects on some hospitals and providers may be significant. The impact analysis, which discusses the effect on total payments to IPPS hospitals and providers, is presented in this section.

B. Statement of Need

This document is necessary to update the FY 2014 IPPS final payment policies to reflect changes required by the implementation of two provisions of the PAMA. Section 105 of the PAMA extends the temporary changes to the payment adjustment for low-volume

hospitals from April 1, 2014 through March 31, 2015. Section 106 of the PAMA extends the MDH program from April 1, 2014 through March 31, 2015. As noted previously, program guidance on the systems implementation of these provisions, including changes to PRICER software used to make payments, will be announced in an upcoming transmittal.

C. Overall Impact

The FY 2014 IPPS/LTCH PPS final rule and the FY 2014 IPPS IFC included an impact analysis for the changes to the IPPS included in those rules. This document updates those impacts to the IPPS to reflect the changes made by sections 105 and 106 of the PAMA. Since these sections were not budget neutral, the overall estimates for hospitals have changed from our estimates that were published in the FY 2014 IPPS/LTCH PPS final rule (78 FR 51037) and the FY 2014 IPPS IFC (79 FR 15029 and 15030). We estimate that the changes in the FY 2014 IPPS payments, including the changes announced in this document, will result in an approximate $1.68 billion increase in total payments to IPPS hospitals relative to FY 2013 rather than the $1.44 billion increase we projected in the FY 2014 IPPS IFC (79 FR 15029).

D. Anticipated Effects

The impact analysis reflects the change in estimated payments to IPPS hospitals in FY 2014 as a result of the implementation of sections 105 and 106 of the PAMA relative to the revised estimated FY 2014 payments to IPPS hospitals that were published in the FY 2014 IPPS IFC (79 FR 15029), which include both the estimated FY 2014 IPPS payments from the provisions implemented in that IFC in addition to the estimated FY 2014 IPPS payments published in the FY 2014 IPPS/LTCH PPS final rule (78 FR 51037). As described later in this regulatory impact analysis, FY 2014 IPPS payments to hospitals affected by sections 105 and 106 of the PAMA are projected to increase by $227 million (relative to the FY 2014 payments estimated for these hospitals for the FY 2014 IPPS IFC). Therefore, we project that, on the average, overall IPPS payments in FY 2014 for all hospitals will increase by approximately an additional 0.24 percent as a result of the estimated $227 million increase in payments due to the implementation of sections 105 and 106 of the PAMA compared to the previous estimate of FY 2014 payments to all IPPS hospitals published in the FY 2014 IPPS IFC.

1. Effects of the Extension of the Temporary Changes to the Payment Adjustment for Low-Volume Hospitals

The extension of the temporary changes to the payment adjustment for low-volume hospitals (originally provided for by the Affordable Care Act) for the last 6 months of FY 2014 (that is, for April 1, 2014 through September 30, 2014) as provided for under section 105 of the PAMA is a non-budget neutral payment provision. The provisions of the Affordable Care Act expanded the definition of low-volume hospital and modified the methodology for determining the payment adjustment for hospitals meeting that definition. Prior to the enactment of the PAMA, beginning April 1, 2014, the low-volume hospital definition and payment adjustment methodology was to return to the statutory requirements that were in effect prior to the amendments made by the Affordable Care Act and extended by subsequent legislation. With the extension for the last 6 months of FY 2014 (that is, April 1, 2014 through September 30, 2014), provided for by the PAMA, based on FY 2012 claims data (March 2013 update of the MedPAR file), we estimate that approximately 600 hospitals will qualify as a low-volume hospital through September 30, 2014. We project that these hospitals will experience an increase in payments of approximately $161 million as compared to our previous estimate of payments to these hospitals for FY 2014 published in the FY 2014 IPPS IFC.

2. Effects of the Extension of the MDH Program

The extension of the MDH program for the last 6 months of FY 2014 (that is, from April 1, 2014 through September 30, 2014) as provided for under section 106 of the PAMA is a non-budget neutral payment provision. Hospitals that qualify as a MDHs receive the higher of operating IPPS payments made under the Federal standardized amount or the payments made under the Federal standardized amount plus 75 percent of the difference between the Federal standardized amount and the hospital-specific rate. Because this provision is not budget neutral, we estimate that the extension of this payment provision for the last 6 months of FY 2014 will result in a 0.1-percent increase in payments overall. Prior to the extension of the MDH program, there were 198 MDHs, of which 118 were estimated to be paid under the blended payment of the Federal standardized amount and hospital-specific rate through April 1, 2014. Because those 118 MDHs will now receive the blended payment (that is, the Federal standardized amount plus 75 percent of the difference between the Federal standardized amount and the hospital-specific rate) for the second half of FY 2014 (from April 1, 2014 through September 30, 2014), we estimate that those hospitals will experience an overall increase in payments of approximately $66 million as compared to our previous estimate of payments to these hospitals for FY 2014 published in the FY 2014 IPPS IFC.

E. Alternatives Considered

This document provides descriptions of the statutory provisions that are addressed and identifies policies for implementing these provisions. Due to the prescriptive nature of the statutory provisions, no alternatives were considered.

F. Accounting Statement and Table

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4*), in Table I, we have prepared an accounting statement showing the classification of expenditures associated with the provisions of this document as they relate to acute care hospitals. This table provides our best estimate of the change in Medicare payments to providers as a result of the changes to the IPPS presented in this document. All expenditures are classified as transfers from the Federal government to Medicare providers. As previously discussed, relative to what was projected in the FY 2014 IPPS IFC, the changes to FY 2014 IPPS payments made by sections 105 and 106 of the PAMA presented in this document are projected to increase FY 2014 payments to IPPS hospitals by approximately $227 million.

TABLE I—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES UNDER THE IPPS FROM PUBLISHED FY 2014 TO REVISED FY 2014

Category	Transfers
Annualized Monetized Transfers.	$227 million.
From Whom to Whom	Federal Government to IPPS Medicare Providers.
Total	$227 million.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 3, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: June 11, 2014.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2014–14070 Filed 6–12–14; 11:15 am]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 79, No. 116
Tuesday, June 17, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0274; Airspace Docket No. 13–AGL–23]

RIN 2120–AA66

Proposed Modification and Revocation of Air Traffic Service (ATS) Routes in the Vicinity of Sandusky, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action proposes to modify 5 VHF Omnidirectional Range (VOR) Federal airways (V–6, V–30, V–126, V–133, and V–416) and remove 1 VOR Federal airway (V–65) in the vicinity of Sandusky, OH. The FAA is proposing this action due to the scheduled decommissioning of the Sandusky, OH (SKY), VOR/Distance Measuring Equipment (VOR/DME) facility that provides navigation guidance for a portion of the airways listed.

DATES: Comments must be received on or before August 1, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2014–0274 and Airspace Docket No. 13–AGL–23 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2014–0274 and Airspace Docket No. 13–AGL–23) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2014–0274 and Airspace Docket No. 13–AGL–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The SKY VOR/DME facility is scheduled to be decommissioned due to the Griffing Sandusky airport property on which it is located being sold and developed into something other than an airport. Additionally, the FAA lease on the property for the SKY VOR/DME ends in September 2014. With the decommissioning of the SKY VOR/DME, ground-based navigation aid (NAVAID) coverage is insufficient to enable the continuity of the affected airways. The proposed modifications to VOR Federal airways V–6, V–30, V–126, V–133, and V–416 would result in a gap in the route structures, as well as the proposed removal of VOR Federal airway V–65. Route segments supported by other NAVAIDs would be retained. To mitigate the decommissioning of the SKY VOR/DME facility and the proposed non-continuous route structures, adjacent VOR Federal airways would remain available.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify VOR Federal airways V–6, V–30, V–126, V–133, and V–416, and remove V–65 in the vicinity of Sandusky, OH. These proposed changes are necessary due to the scheduled decommissioning of the SKY VOR/DME. The proposed route modifications are outlined below.

V–6: V–6 extends from the Oakland, CA (OAK), VOR Tactical Air Navigation (VORTAC) to the DuPage, IL (DPA), VOR/DME, and from the intersection of the Chicago Heights, IL (CGT), VORTAC 358° and Gipper, MI (GIJ), VORTAC 271° radials (NILES fix) to the La Guardia, NY (LGA), VOR/DME. The route segment between the Waterville, OH (VWV), VOR/DME and Dryer, OH (DJB), VOR/DME facilities would be removed and aircraft flying between VWV and DJB would be routed using other existing adjacent airways.

V–30: V–30 extends from the Badger, WI (BAE), VORTAC to the Solberg, NJ (SBJ), VOR/DME. The route segment between the VWV VOR/DME and DJB VOR/DME facilities would be removed and aircraft flying between VWV and DJB would be routed using other existing adjacent airways.

V–65: V–65 extends from the DJB VOR/DME to the Carleton, MI (CRL), VORTAC. This route would be removed completely and aircraft flying between DJB and CRL would be routed using other existing adjacent airways.

V–126: V–126 extends from the intersection of the Peotone, IL (EON), VORTAC 053° and Knox, IN (OXI), VOR/DME 297° radials (BEARZ fix) to the Stonyfork, PA (SFK), VOR/DME. The route segment between the VWV VOR/DME and DJB VOR/DME facilities would be removed and aircraft flying between VWV and DJB would be routed using other existing adjacent airways.

V–133: V–133 extends from the intersection of the Charlotte, NC (CLT), VOR/DME 305° and Barretts Mountain, NC (BZM), VOR/DME 197° radials (LINCO fix) to the Red Lake, ON, Canada (YRL), VOR/DME, excluding the airspace within Canada. The route segment between the Mansfield, OH (MFD), VORTAC and Salem, MI (SVM), VORTAC facilities would be removed and aircraft flying between MFD and SVM would be routed using other existing adjacent airways.

V–416: V–416 extends from the Rosewood, OH (ROD), VORTAC to the intersection of the MFD VORTAC 045° and SKY VOR/DME 107° radials (JAKEE fix). Since the JAKEE fix is defined using a radial from the SKY VOR, the fix is being redefined in its same location using radials from the MFD VORTAC and DJB VOR/DME to retain the route unchanged.

With the exception of the Dryer, OH, VOR/DME radial information contained in the regulatory text V–416 description, the navigation aid radials cited in the proposed VOR Federal airways descriptions are stated relative to True north.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–6 [Amended]

From Oakland, CA; INT Oakland 039° and Sacramento, CA, 212° radials; Sacramento; Squaw Valley, CA; Mustang, NV; Lovelock, NV; Battle Mountain, NV; INT Battle Mountain 062° and Wells, NV, 256° radials; Wells; 5 miles, 40 miles, 98 MSL, 85 MSL, Lucin, UT; 43 miles, 85 MSL, Ogden, UT; 11 miles, 50 miles, 105 MSL, Fort Bridger, WY; Rock Springs, WY; 20 miles, 39 miles 95 MSL, Cherokee, WY; 39 miles, 27 miles 95 MSL, Medicine Bow, WY; INT Medicine Bow 106° and Sidney, NE., 291° radials; Sidney; North Platte, NE; Grand Island, NE; Omaha, NE; Des Moines, IA; Iowa City, IA; Davenport, IA; INT Davenport 087° and DuPage, IL, 255° radials; to DuPage. From INT Chicago Heights, IL, 358° and Gipper, MI, 271° radials; Gipper; INT Gipper 092° and Waterville, OH, 288° radials; to Waterville. From Dryer, OH; Youngstown, OH; Clarion, PA; Philipsburg, PA; Selinsgrove, PA; Allentown, PA; Solberg, NJ; INT Solberg 107° and Yardley, PA, 068° radials; INT Yardley 068° and La Guardia, NY, 213° radials; to La Guardia. The airspace within R–4803, R–4813A, and R–4813B is excluded when active.

* * * * *

V–30 [Amended]

From Badger, WI; INT Badger 102° and Pullman, MI, 303° radials; Pullman; Litchfield, MI; to Waterville, OH. From Dryer, OH; Akron, OH; Clarion, PA; Philipsburg, PA; Selinsgrove, PA; East Texas, PA; INT East Texas 095° and Solberg, NJ, 264° radials; to Solberg.

* * * * *

V–65 [Removed]

* * * * *

V–126 [Amended]

From INT Peotone, IL, 053° and Knox, IN, 297° radials; INT Knox 297° and Goshen, IN, 270° radials; Goshen; to Waterville, OH. From Dryer, OH; Jefferson, OH; Erie, PA; Bradford, PA; to Stonyfork, PA.

* * * * *

V–133 [Amended]

From INT Charlotte, NC, 305° and Barretts Mountain, NC, 197° radials; Barretts Mountain; Charleston, WV; Zanesville, OH; Tiverton, OH; to Mansfield, OH. From Salem, MI; INT Salem 346° and Saginaw, MI, 160° radials; Saginaw; Traverse City, MI; Escanaba, MI; Sawyer, MI; Houghton, MI; Thunder Bay, ON, Canada; International Falls, MN; to Red Lake, ON, Canada. The airspace within Canada is excluded.

* * * * *

V–416 [Amended]

From Rosewood, OH; INT Rosewood 041° and Mansfield, OH, 262° radials; Mansfield; to INT Mansfield 045° and Dryer, OH, 123°T/129°M radials.

* * * * *

Issued in Washington, DC, on June 11, 2014.

Gary A. Norek,

Manager, Airspace Policy & Regulations Group.

[FR Doc. 2014–14142 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 169

[Docket ID: BIA–2014–0001; DR.5B711.IA000814]

RIN 1076–AF20

Rights-of-Way on Indian Land

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land, while supporting tribal self-determination and self-governance. This proposed rule would also further implement the policy decisions and approaches established in the leasing regulations, which BIA finalized in December 2012, by applying them to the rights-of-way context where applicable. This publication also announces the dates and locations for tribal consultation sessions to discuss this proposed rights-of-way rule.

DATES: Comments on this rule must be received by August 18, 2014. *Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule.* Comments on the information collection burden should be received by July 17, 2014 to ensure consideration, but must be received no later than August 18, 2014. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for dates of tribal consultation sessions.

ADDRESSES: You may submit comments by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2014–0001.

—*Email: consultation@bia.gov.* Include the number 1076–AF20 in the subject line.

—*Mail* or *Hand Delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 4141, Washington, DC 20240. Include the number 1076–AF20 on the envelope.

Please note that we will not consider or include in the docket for this rulemaking comments received after the close of the comment period (see **DATES**) or comments sent to an address other than those listed above.

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Please see the **SUPPLEMENTARY INFORMATION** section of this notice for addresses of tribal consultation sessions.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.* You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Executive Summary of Rule

This is a proposed rule to comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land. The current regulations were promulgated in 1968, and last updated in 1980. In December 2012, the Department issued final regulations comprehensively reforming residential, business, and wind and solar leasing on Indian land and streamlining the leasing process. Given the supportive response to the leasing regulatory revisions, we are updating 25 CFR 169 (Rights-of-Way) to mirror those revisions to the extent applicable in the rights-of-way context. Highlights of the proposed rights-of-way revisions include:

○ Eliminating the need to obtain BIA consent for surveying in preparation for a right-of-way;

○ Establishing timelines for BIA review of rights-of-way requests;

○ Clarifying processes for BIA review of right-of-way documents;

○ Allowing BIA disapproval only where there is a stated compelling reason;

○ Providing greater deference to Tribes on compensation for rights-of-way;

○ Clarifying the authority by which BIA approves rights-of-way; and

○ Eliminating outdated requirements specific to different types of rights-of-way.

Together, these revisions will modernize the rights-of-way approval process while better supporting Tribal self-determination. This rule also updates the regulations to be in a question-and-answer format, in compliance with ''plain language'' requirements.

II. Summary of All Revisions to 25 CFR Part 169

The following table summarizes revisions to part 169, by showing where the substance of each section of the current rule is in the proposed rule and describing the changes.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change
169.1	Definitions of ''Secretary,'' ''individually owned land,'' ''tribe'', ''tribal land,'' and ''Government owned land.''.	169.002	Revises the definition of ''tribe'' to be ''Indian tribe'' and to refer to the Federal List Act. Simplifies the remaining definitions. Adds definitions for ''abandonment,'' ''assignment,'' ''avigation hazard easement,'' ''BIA,'' ''compensation,'' ''constructive notice,'' ''easement,'' ''fractional interest,'' ''grant,'' ''grantee,'' ''immediate family,'' ''Indian,'' ''Indian land,'' ''in-kind compensation,'' ''legal description,'' ''LTRO,'' ''map of definite location,'' ''market value,'' ''right-of-way,'' ''right-of-way document,'' ''Section 17 corporation,'' ''service line,'' ''trespass,'' ''tribal authorization,'' ''trust account,'' ''trust account encumbrance,'' ''trust and restricted status,'' ''Uniform Standards for Professional Appraisal Practice (USPAP),'' and ''us/we/our.''
169.2(a), (c)	Purpose and scope of regulations	169.001	Updates the purpose of the regulations to provide that BIA will use its general statutory authority for granting rights-of-way.
N/A	N/A	169.003–169.010	New sections. Specify what land part 169 applies to, when a right-of-way is needed, what types of rights-of-way are covered by part 169, whether part 169 applies to rights-of-way applications submitted before this version of the rule, that tribes may compact or contract for certain BIA realty functions related to rights-of-way, what laws apply to rights-of-way, what taxes apply to rights-of-way, and how BIA provides notice of its actions related to rights-of-way.
169.2(b)	Appeals	169.011	Adds exceptions to part 2 appeals and clarifies ''interested party'' to make consistent with availability of appeals in the leasing context.
169.3(a)	Tribal consent required	169.106	No substantive change.
169.3(b)–(c)	Individual Indian landowner consent required	169.107, 169.108	Adds a requirement for BIA to provide 30-day notice to landowners on whose behalf it will consent. Reorganizes to establish whom BIA can consent on behalf of. Updates to comply with statutory authorities that have been updated since the last regulatory revision.
169.4	Permission to survey	169.101(b)	Removes the requirement for BIA approval to survey, but retains the requirement for obtaining landowner consent to survey.
169.5	Application for right-of-way	169.101–169.102, 169.121.	Removes requirement for duplicate filing and statutory citation. Consolidates provisions and provides that they will be issued in the grant, rather than requiring grantee to submit them in a stipulation with the application. Clarifies that application must identify the affected tract, right-of-way location, purpose, and duration, and ownership of any permanent improvements. Adds that the following must accompany the application: legal description, bond, and information necessary to comply with environmental laws.
N/A	N/A	169.105	Establishes requirement for due diligence in construction of permanent improvements.
169.6	Maps. Requires maps of definite location on tracing linen or other ''permanent and reproducible material.'' Requires a separate map for each 20 miles, a specific scale, and the parcels, sections, townships, and ranges affected.	162.102(b)	Removes specific requirements for format of map of definite location (e.g., tracing linen), scale, etc. Adds requirement that map be signed by a professional surveyor or engineer.
169.7	Field notes. Requires field notes either on map or submitted separately.	N/A	Deleted.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change
169.8	Public survey. Requires terminal of line of route to be fixed to nearest corner of public survey and, if terminal is on unsurveyed land, be connected with corner of public survey < 6 miles away.	169.002	Definition of map of definite location requires it to include reference to a public survey.
169.9	Connection with natural objects. Requires connection with natural object or permanent monument if distance to an established corner of the public survey is > 6 miles.	N/A	Deleted. Legal description and map make this unnecessary.
169.10	Township and section lines. Requires map to show distance to nearest corner if line of survey crosses a township or section line of public survey.	169.002	Definition of map of definite location requires it to include reference to a public survey
169.11	Affidavit and certificate. Requires map to include an affidavit by engineer and certificate by applicant on accuracy. Requires BIA-built roads transferred to county or State to include affidavit by BIA engineer and State officer on accuracy.	169.102(b)(2)	Maintains the requirement for an engineer to sign the map, but adds that a surveyor may sign the map instead. Deletes requirement for applicant to sign a certificate regarding the map's accuracy, because the rule otherwise requires that the map be accurate. Deletes the section on maps covering BIA roads to be transferred to a county or State.
169.12	Consideration for right-of-way grants. Requires fair market value and requires the Secretary to obtain and advise landowner of appraisal information.	169.109–169.111	Provides that the Secretary will defer to the tribe's negotiated compensation for tribal land. Maintains requirement for fair market value and a valuation for individually owned Indian land, but adds exceptions. Allows for market value to be determined by several methods (in addition to, or instead of, appraisals).
N/A	N/A	169.112–169.117	New sections. Clarify when compensation payments may be due for a right-of-way, allowing for agreements to make payment at times other than upon application, require the right-of-way grant to specify how payment occurs (direct pay or to BIA) and put limits on availability of direct pay, allow for non-monetary (e.g., discount internet service) and varying types of compensation, clarify whether BIA will notify when a payment is due, and clarify when right-of-way grant must provide for compensation reviews or adjustments.
169.13	Other damages. Requires grantee to pay all damages incident to the survey or construction or maintenance of the facility for which the right-of-way is granted.	169.118	Adds other charges that grantee may be subject to.
169.14	Deposit and disbursement of consideration and damages. Requires applicant to deposit total estimated consideration and damages with application. Requires amounts to be held in "special deposit" accounts.	169.103	Requires estimated damages payment to be in the form of a bond or alternative security. Deletes reference to "special deposit" accounts, because the specific accounts into which compensation would be deposited is outside the scope of this regulation.
165.15	Action on application. Provides that Secretary may grant right-of-way, with attached maps of definite location. Allows Secretary to issue one document for all tracts traversed by the right-of-way, or separate documents.	169.119–169.120	Establishes the process and criteria by which BIA will grant a right-of-way. Establishes deadlines for BIA action. Maintains flexibility for Secretary to issue one document or separate documents for multiple tracts.
169.16	Affidavit of Completion. Requires applicant to file an affidavit of completion once a right-of-way is constructed.	N/A	Deleted.
N/A	N/A	161.122	New section. Clarifies that a right-of-way grant may include a preference for employment of tribal members.
N/A	N/A	161.123	New section. Clarifies when a new right-of-way is required for a new use within or overlapping an existing right-of-way.
169.17	Change of location. Requires a new right-of-way, including consent, amended maps, etc., if a change from the location in the grant is necessary due to engineering difficulties or otherwise.	169.124	Allows flexibility for BIA to determine whether a new right-of-way and/or consent, amended maps, etc., are required based on whether the use is provided for or is within the same scope of use provided for in the original grant.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change
169.18	Tenure of approved right-of-way grants. Provides that rights-of-way under 1948 Act may be without limitation as to term of years, except as stated in the grant, but all others may not exceed 50 years, as determined by BIA.	169.201	Provides guidance to BIA staff for determining appropriate duration of a right-of-way based on purpose of the right-of-way. Eliminates distinction between rights-of-way under the 1948 Act and others
169.19	Renewal of right-of-way grants. Allows applications for renewal where no change in location or status, with consent and consideration. Requires new right-of-way application if there is any change to the size, type, or location.	169.202	Allows a renewal without consent if the original grant provides for it.
N/A	N/A	169.203	New section. Clarifies when a right-of-way may be renewed multiple times.
N/A	N/A	169.204–169.206	New sections. Clarify the circumstances in which a right-of-way may be amended, and the process for amending.
N/A	N/A	169.207–169.209	New sections. Clarify the circumstances in which a right-of-way may be assigned, and the process for assigning.
N/A	N/A	169.210–169.212	New sections. Clarify the circumstances in which a right-of-way may be mortgaged, and the process for mortgaging.
N/A	N/A	169.301–169.305	New sections. Clarify when a right-of-way is effective and must be recorded, what happens if BIA denies the right-of-way or does not meet a deadline for issuing a decision on a right-of-way, and whether appeal bonds are required.
N/A	N/A	169.401–169.402	New sections. Clarify when BIA may investigate compliance with a right-of-way.
169.20	Termination of right-of-way grants. Provides that the Secretary may terminate a right-of-way with 30-day notice for certain causes.	169.403–169.405	Allows landowners to provide for negotiated remedies, including termination without BIA concurrence (where tribe is landowner) or with BIA concurrence (where individual Indians are landowners). Provides that BIA will consult with the landowners before determining whether to cancel the grant.
N/A	N/A	169.406–169.407	New sections. Specify what late payment charges and fees apply to delinquent payments and how payment rights will be allocated.
N/A	N/A	169.408–169.409	New sections. Specify the process by which BIA will cancel a right-of-way and when cancellation is effective.
N/A	N/A	169.410–169.412	New sections. Specify what BIA will do if a grantee remains in possession after a right-of-way expires or is terminated or cancelled, what appeal bond regulations apply to cancellation decisions, and what happens if someone uses Indian land without a right-of-way or other proper authorization.
169.21	Condemnation actions involving individually owned lands. Requires that BIA report condemnation actions to Interior.	N/A	Deleted.
169.22	Service lines. Requires execution of service line agreements. Limits service lines to certain voltage. Requires tribe's governing body to consent to service line agreements for tribal land. Requires only a plat or diagram showing location, size and extent of line. Requires filing of agreement with Secretary within 30 days of execution.	169.002, 169.501–169.505.	Clarifies in definition that a service line is only a utility line running from a main line to provide landowners/occupants with utility service and deletes provisions restricting service lines to a specific voltage.
169.23	Railroads. Lists specific statutory authorities for railroads and other rights-of-way, and includes specific requirements for railroad right-of-ways.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities.
169.24	Railroads in Oklahoma. Lists specific statutory authorities for railroad rights-of-way in Oklahoma.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change
169.25	Oil and gas pipelines. Lists specific statutory authorities and requirements for oil and gas pipeline rights-of-way.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities. Specific requirements for oil and gas pipelines are unnecessary because they are already addressed in applicable State and Federal laws.
169.26	Telephone and telegraph lines; radio, television, and other communications facilities. Lists specific statutory authorities and requirements for telephone and telegraph lines, etc.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities.
169.27	Power projects. Lists specific statutory authorities and requirements for power project rights-of-way.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities.
169.28	Public highways. Allows State and local authorities to apply under these regulations for rights-of-way for open public highways on Indian land. Allows authorities in Nebraska or Montana to open highways without right-of-way, under specific statutory authority. Cross-references 25 CFR 256.	N/A	Deleted. These provisions are unnecessary because the general right-of-way authority in 25 U.S.C. 323–328 is being relied upon, rather than specific authorities.

The core processes for obtaining landowner consent and BIA approval are the same as for obtaining a lease. The timelines this proposed rule would establish for rights-of-way approvals mirror those for business leases at 25 CFR subpart D, allowing for a 60-day review of right-of-way applications, and 30-day review of amendments, assignments, and mortgages. If BIA does not act within those established deadlines, the parties could elevate the application to the Regional Director or Director of BIA, as appropriate, for action.

We are interested in all comments regarding this rule, but also would specifically like comment on the bonding provisions and whether the proposed durations for different types of rights-of-way set out in section 169.201 are appropriate.

III. Tribal Consultation Sessions

We will be hosting several tribal consultation sessions throughout the country to discuss this proposed rule. The dates and locations for the consultation sessions are as follows:

Date	Time	Location	Venue
Tuesday, August 5, 2014	8 a.m.–12 p.m. (Local time).	Bismarck, North Dakota	Bismarck Civic Center, Prairie Rose, Room 101, 315 S. 5th Street, Bismarck, ND 58504.
Wednesday, August 6, 2014	1 p.m.–5 p.m. (Local time)	Scottsdale, Arizona	Talking Stick Resort, 9800 E. Indian Bend Rd., Scottsdale, AZ 85256.
Thursday, August 7, 2014	1 p.m.–4 p.m. Eastern Time.	Teleconference	Call-in number: (888) 989–7589, Passcode: 208–1244.

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations and provide greater notice and clarity to the public.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based

enterprises because the rule is limited to rights-of-way on Indian land.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule only concerns BIA's grant of rights-of-way on Indian land.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. We will be consulting with Indian tribes during the public comment period on this rule.

I. Paperwork Reduction Act

This rule contains information collections requiring approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The Department is seeking approval for a new OMB Control Number.

OMB Control Number: 1076–NEW.

Title: Rights-of-Way on Indian Land.

Brief Description of Collection: This information collection requires applicants for, and recipients of, right-of-way grants to cross Indian land to submit information to the Bureau of Indian Affairs.

Type of Review: Existing collection in use without OMB control number.

Respondents: Individuals and entities.

Number of Respondents: 550 on average (each year).

Number of Responses: 3,300 on average (each year).

Frequency of Response: On occasion.

Estimated Time per Response: 1 hour (for applications); 0.5 hours (for responses to notices of violation); 0.5 hours (for responses to trespass notices of violations); and 0.25 hours (for filing service line agreements).

Estimated Total Annual Hour Burden: 2,500 hours.

Estimated Total Non-Hour Cost: $2,200,000.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because these are ''regulations . . . whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' 43 CFR 46.210(j). No extraordinary circumstances exist that would require greater NEPA review.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ''COMMENTS'' section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 169

Indians—lands, Rights-of-way.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to revise 25 CFR part 169 to read as follows:

PART 169—RIGHTS-OF-WAY OVER INDIAN LAND

Subpart A—Purpose, Definitions, General Provisions

Sec.

169.001 What is the purpose of this part?
169.002 What terms do I need to know?
169.003 To what land does this part apply?
169.004 When do I need a right-of-way to authorize possession over or across Indian land?
169.005 What types of rights-of-way does this part cover?
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Authority: 5 U.S.C. 301; 62 Stat. 17 (25 U.S.C. 323–328), 25 U.S.C. 2218, and other acts cited in the text.

Subpart A—Purpose, Definitions, General Provisions

§ 169.001 What is the purpose of this part?

(a) This part is intended to streamline the procedures and conditions under which we will approve (i.e., grant) rights-of-way over and across tribal lands, individually owned Indian lands, and Government-owned lands, by providing for the use of the broad authority under 25 U.S.C. 323–328, rather than the limited authorities under other statutes.

(b) This part specifies:

(1) Conditions and authorities under which we will approve rights-of-way on or across Indian land;

(2) How to obtain a right-of-way;

(3) Terms and conditions required in rights-of-way;

(4) How we administer and enforce rights-of-ways;

(5) How to renew, amend, assign, and mortgage rights-of-way; and

(6) Whether rights-of-way are required for service line agreements.

(c) This part does not cover rights-of-way on or across tribal lands within a reservation for the purpose of Federal Power Act projects, such as constructing, operating, or maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other works which must constitute a part of any project for which a license is required by the Federal Power Act.

(1) The Federal Power Act provides that any license that must be issued to use tribal lands within a reservation must be subject to and contain such conditions as the Secretary deems necessary for the adequate protection and utilization of such lands (16 U.S.C. 797(e)).

(2) In the case of tribal lands belonging to a tribe organized under the Act of June 18, 1934 (48 Stat. 984), the Federal Power Act requires that annual charges for the use of such tribal lands under any license issued by the Federal Energy Regulatory Commission must be subject to the approval of the tribe (16 U.S.C. 803(e)).

(d) This part does not apply to grants of rights-of-way on tribal land under a special act of Congress authorizing grants without our approval under certain conditions.

§ 169.002 What terms do I need to know?

Abandonment means the grantee has affirmatively relinquished a right-of-way (as opposed to relinquishing through non-use).

Assignment means an agreement between a grantee and an assignee, whereby the assignee acquires all or part of the grantee's rights, and assumes all

of the grantee's obligations under a grant.

Avigation hazard easement means the right, acquired by government through purchase or condemnation from the owner of land adjacent to an airport, to the use of the air space above a specific height for the flight of aircraft.

BIA means the Secretary of the Interior or the Bureau of Indian Affairs within the Department of the Interior and any tribe acting on behalf of the Secretary or BIA under § 169.007 of this part.

Compensation means something bargained for that is fair and reasonable under the circumstances of the agreement.

Constructive notice means notice:

(1) Posted at the tribal government office, tribal community building, and/or the United States Post Office; and

(2) Published in the local newspaper(s) nearest to the affected land and/or announced on a local radio station(s).

Easement means an interest in land owned by another person, consisting of the right to use or control, for a specific limited purpose, the land, or an area above or below it.

Encumbered account means a trust fund account where some portion of the proceeds are obligated to another party.

Fractional interest means an undivided interest in Indian land owned as tenancy in common by individual Indian or tribal landowners and/or fee owners.

Government land means any tract, or interest therein, in which the surface estate is owned and administered by the United States, not including Indian land.

Grant means the formal transfer of a right-of-way interest by the Secretary's approval.

Grantee means a person or entity to whom the Secretary grants a right-of-way.

Immediate family means, in the absence of a definition under applicable tribal law, a spouse, brother, sister, aunt, uncle, niece, nephew, first cousin, lineal ancestor, lineal descendant, or member of the household.

Indian means:

(1) Any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner as of October 27, 2004, of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; and

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in paragraph (1) or (2) of this definition or any person who owns a trust or restricted interest in a parcel of such land in that State.

Indian land means any tract in which any interest in the surface estate is owned by a tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and tribal land.

Indian landowner means a tribe or individual Indian who owns an interest in Indian land.

Indian tribe or *tribe* means an Indian tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

Individually owned Indian land means any tract, or interest therein, in which the surface estate is owned by an individual Indian in trust or restricted status.

In-kind compensation means payment is in goods or services rather than money.

Legal description means that part of the conveyance document of land or interest in land, which identifies the land or interest to be affected.

LTRO means the Land Titles and Records Office of BIA.

Map of definite location means a survey plat showing the location, size, and extent of the right-of-way and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or Government land and with respect to the public surveys under 25 U.S.C. 176, 43 U.S.C. 2, and 1764.

Market value means the amount of compensation that a right-of-way would most probably command in an open and competitive market.

Right-of-way means a legal right to cross tribal land, individually owned Indian land, or Government land for a specific purpose, including but not limited to building and operating a line or road. This term may also refer to the land subject to the grant of right-of-way.

Right-of-way document means a right-of-way grant, renewal, amendment, assignment, or mortgage of a right-of-way.

Secretary means the Secretary of the Interior or an authorized representative.

Section 17 corporation means an Indian corporation federally chartered under section 17 of the Act of June 18, 1934, 25 U.S.C. 476.

Service line means a utility line running from a main line that is used only for supplying owners or authorized occupants or users of land with telephone, water, electricity, gas, internet service, or other home utility service.

Trespass means any unauthorized occupancy, use of, or action on tribal or individually owned Indian land.

Tribal authorization means a duly adopted tribal resolution, tribal ordinance, or other appropriate tribal document authorizing the specified action.

Tribal land means any tract, or interest therein, in which the surface estate is owned by one or more tribes in trust or restricted status, and includes such lands reserved for BIA administrative purposes. The term also includes the surface estate of lands held in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477).

Trust account means a tribal account or Individual Indian Money (IIM) account for trust funds maintained by the Secretary.

Trust or restricted status means:

(1) That the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians; or

(2) That one or more tribes or individual Indians holds title to the tract or interest, but can alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under Federal law or limitations in Federal law.

Uniform Standards of Professional Appraisal Practice (USPAP) means the standards promulgated by the Appraisal Standards Board of the Appraisal Foundation to establish requirements and procedures for professional real property appraisal practice.

Us/we/our means the BIA.

§ 169.003 To what land does this part apply?

(a) This part applies to Indian land and Government land.

(1) We will not take any action on a right-of-way across fee land or collect compensation on behalf of fee interest owners. We will not condition our grant of a right-of-way across Indian land or Government land on the applicant having obtained a right-of-way from the owners of any fee interests. The applicant will be responsible for negotiating directly with and making any payments directly to the owners of any fee interests that may exist in the property on which the right-of-way is granted.

(2) We will not include the fee interests in a tract in calculating the applicable percentage of interests required for consent to a right-of-way.

(b) This paragraph (b) applies if there is a life estate on the land proposed to be subject to a right-of-way.

(1) Unless otherwise provided in a will creating the life estate, when all of the trust or restricted interests in a tract are subject to the same life estate (created by operation of law), the life tenant may grant a right-of-way over the land without the consent of the owners of the remainder interests or our approval, for the duration of the life estate.

(i) The right-of-way will terminate upon the expiration of the life estate.

(ii) The life tenant must record the right-of-way in the LTRO.

(iii) The grantee must pay compensation directly to the life tenant under the terms of the right-of-way unless the whereabouts of the life tenant are unknown, in which case we may collect compensation on behalf of the life tenant.

(iv) We may monitor the use of the land, as appropriate, and will enforce the terms of the right-of-way on behalf of the owners of the remainder interests, but will not be responsible for enforcing the right-of-way on behalf of the life tenant.

(v) We will not grant a right-of-way on behalf of the owners of the remainder interests or join in a right-of-way granted by the life tenant on behalf of the owners of the remainder interests except as needed to preserve the value of the land.

(2) Unless otherwise provided in a will creating the life estate, when less than all of the trust or restricted interests in a tract are subject to a particular life estate (by operation of law), the life tenant may grant a right-of-way for his or her interest without the consent of the owners of the remainder interests, for the duration of the life estate, but the applicant must obtain the consent of the co-owners and our approval.

(i) The right-of-way over the life interest will terminate upon the expiration of the life estate.

(ii) We will not grant a right-of-way on the life tenant's behalf.

(iii) The right-of-way must provide that the grantee pays the life tenant directly, unless the life tenant's whereabouts are unknown in which case we may collect compensation on behalf of the life tenant.

(iv) The right-of-way must be recorded in the LTRO.

(v) We may monitor the use of the land, as appropriate, and will enforce the terms of the right-of-way on behalf of the owners of the remainder interests, but will not be responsible for enforcing the right-of-way on behalf of the life tenant.

(3) We may grant a right-of-way for longer than the duration of a life estate with the consent of a majority of the owners of the remainder interests, and may consent on behalf of undetermined owners of remainder interests.

(4) Unless otherwise provided in a will creating the life estate, where the owners of the remainder interests and the life tenant have not entered into a right-of-way or other written agreement approved by the Secretary providing for the distribution of rent monies under the right-of-way, the life tenant will receive payment in accordance with the distribution and calculation scheme set forth in Part 179 of this chapter.

(5) The life tenant may not cause or allow permanent injury to the land.

(6) The life tenant must provide a copy of their right-of-way consent to us and must record any right-of-way granted under paragraph (b)(1) of this section in the LTRO.

§ 169.004 When do I need a right-of-way to authorize possession over or across Indian land?

(a) You need an approved right-of-way under this part before crossing Indian land if you meet one of the criteria in the following table, unless you are authorized by a land use agreement not subject to this part (e.g., under 25 CFR part 84) or a lease under 25 CFR part 162, 211, 212, 225, or similar, tribe-specific authority.

If you are . . .	then you must obtain a right-of-way under this part . . .
(1) A person or legal entity (including an independent legal entity owned and operated by a tribe or Federal, State, or local governmental entity) who is not an owner of the Indian land.	from us, with the consent of the owners of the majority interest in the land before crossing the land or any portion thereof.
(2) An Indian landowner of a fractional interest in the land	from us, with the consent of the owners of other trust and restricted interests in the land, totaling at least a majority interest, unless all of the owners have given you permission to cross without a right-of-way.

(b) You do not need a right-of-way to cross Indian land if:

(1) You are an Indian landowner who owns 100 percent of the trust or restricted interests in the land; or

(2) You meet any of the criteria in the following table.

You do not need a right-of-way if you are . . .	but the following conditions apply . . .
(i) A parent or guardian of a minor child who owns 100 percent of the trust or restricted interests in the land.	We may require you to provide evidence of a direct benefit to the minor child and when the child is no longer a minor, you must obtain a right-of-way to authorize continued possession.
(ii) Authorized by a service line agreement to cross the land	You must file the agreement with us under § 169.504.
(iii) Otherwise authorized by law (e.g., a statute, judicial order, or common law authorizes access).	You must comply with the requirements of the applicable statute, judicial order, or common law.

§ 169.005 What types of rights-of-way does this part cover?

(a) This part covers rights-of-way over and across Indian or Government land, for uses including but not limited to the following:

(1) Railroads;

(2) Public roads and highways;

(3) Access roads;

(4) Service roads and trails essential to any other right-of-way purpose;

(5) Public and community water lines (including pumping stations and appurtenant facilities);

(6) Public sanitary and storm sewer lines (including sewage disposal and treatment plant lines);

(7) Water control and use projects (including but not limited to, flowage easements, irrigation ditches and canals, and water treatment plant lines);

(8) Oil and gas pipelines;

(9) Electric transmission and distribution lines (including poles, towers, and appurtenant facilities);

(10) Telecommunications, broadband, fiber optic lines;

(11) Avigation hazard easements; or

(12) Conservation easements not covered by 25 CFR 84, Encumbrances of Tribal Land—Contract Approvals, or 25 CFR 162, Leases and Permits.

(b) BIA will grant rights-of-way using the authority in 25 U.S.C. 323–328, and relying on supplementary authority such as 25 U.S.C. 2218, where appropriate, and this part covers all rights-of-way granted under that statutory authority. This part also covers existing rights-of-way that were granted under other statutory authorities prior to the effective date of this rule, except that if the provisions of the preexisting right-of-way document conflict with this part, the provisions of the preexisting right-of-way document govern.

§ 169.006 Does this part apply to right-of-way grants I submitted for approval before [EFFECTIVE DATE OF REGULATIONS]?

This part applies to all right-of-way documents. If you submitted your right-of-way document to us for granting or approval before [EFFECTIVE DATE OF REGULATIONS], the qualifications in paragraphs (a) and (b) of this section also apply.

(a) If we granted or approved your right-of-way document before [EFFECTIVE DATE OF REGULATIONS], this part applies to that right-of-way document; however, if the provisions of the right-of-way document conflict with this part, the provisions of the right-of-way document govern.

(b) If you submitted a right-of-way document but we did not approve or grant it before [EFFECTIVE DATE OF REGULATIONS], then:

(1) We will review the right-of-way document under the regulations in effect at the time of your submission; and

(2) Once we grant or approve the right-of-way document, this part applies to that right-of-way document; however, if the provisions of the right-of-way document conflict with this part, the provisions of the right-of-way document govern.

§ 169.007 May tribes administer this part on BIA's behalf?

A tribe or tribal organization may contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f *et seq.*) to administer any portion of this part that is not a grant, approval, or disapproval of a right-of-way document, waiver of a requirement for right-of-way grant or approval (including but not limited to waivers of market value and valuation), cancellation of a right-of-way, or an appeal.

§ 169.008 What laws apply to rights-of-way approved under this part?

(a) In addition to the regulations in this part, rights-of-way approved under this part:

(1) Are subject to all applicable Federal laws;

(2) Are subject to tribal law, subject to paragraph (b) of this section; and

(3) Are not subject to State law or the law of a political subdivision thereof except that:

(i) State law or the law of a political subdivision thereof may apply in the specific areas and circumstances in Indian country where the Indian tribe with jurisdiction has made it expressly applicable;

(ii) State law may apply in the specific areas and circumstances in Indian country where Congress has made it expressly applicable; and

(iii) State law may apply where a Federal court has expressly applied State law to a specific area or circumstance in Indian country in the absence of Federal or tribal law.

(b) Tribal laws generally apply to land under the jurisdiction of the tribe enacting the laws, except to the extent that those tribal laws are inconsistent with these regulations or other applicable Federal law. However, these regulations may be superseded or modified by tribal laws, as long as:

(1) The tribe has notified us of the superseding or modifying effect of the tribal laws;

(2) The superseding or modifying of the regulation would not violate a Federal statute or judicial decision, or conflict with our general trust responsibility under Federal law; and

(3) The superseding or modifying of the regulation applies only to tribal land.

(c) Unless prohibited by Federal law, the parties to a right-of-way may subject that right-of-way to State or local law in the absence of Federal or tribal law, if the Indian landowners expressly agree, in writing, to the application of State or local law.

(d) An agreement under paragraph (c) of this section does not waive a tribe's sovereign immunity unless the tribe expressly states its intention to waive sovereign immunity in its consent to the right-of-way on tribal land.

(e) A right-of-way is an interest in land, but title does not pass to the grantee. Unless otherwise expressly stated in its consent to the right-of-way for tribal land, or in a tribal authorization for a right-of-way for individually-owned Indian land, the Secretary's grant of a right-of-way does not diminish to any extent:

(1) The Indian tribe's jurisdiction over the land subject to the right-of-way;

(2) The power of the Indian tribe to tax the land, any improvements on the land, or any activity related to, and not inconsistent with, the right-of-way;

(3) The Indian tribe's authority to enforce tribal law of general or particular application on the land subject to the right-of-way, as if there were no grant of right-of-way;

(4) The Indian tribe's inherent sovereign power to exercise civil jurisdiction over non-members on tribal land by regulating, through taxation, licensing, or other means, the activities of non-members who enter into consensual relationships with the Indian tribe or its members; or

(5) The character of the land subject to the right-of-way as Indian country under 18 U.S.C. 1151.

§ 169.009 What taxes apply to rights-of-way approved under this part?

(a) Subject only to applicable Federal law, permanent improvements in a right-of-way, without regard to ownership of those improvements, are not subject to any fee, tax, assessment, levy, or other charge imposed by any State or political subdivision of a State. Improvements may be subject to taxation by the Indian tribe with jurisdiction.

(b) Subject only to applicable Federal law, activities under a right-of-way grant are not subject to any fee, tax, assessment, levy, or other charge (e.g., business use, privilege, public utility, excise, gross revenue taxes) imposed by any State or political subdivision of a State. Activities may be subject to taxation by the Indian tribe with jurisdiction.

(c) Subject only to applicable Federal law, the right-of-way or possessory interest is not subject to any fee, tax, assessment, levy, or other charge imposed by any State or political subdivision of a State. Possessory interests may be subject to taxation by the Indian tribe with jurisdiction.

§ 169.010 How does BIA provide notice to the parties to a right-of-way?

(a) When this part requires us to notify the parties of the status of our review of a right-of-way document (including but not limited to, providing notice to the parties of the date of receipt, informing the parties of the need for additional review time, and informing the parties that an application package is not complete):

(1) For rights-of-way affecting tribal land, we will notify the grantee and the tribe by mail; and

(2) For rights-of-way affecting individually owned Indian land, we will notify the grantee by mail and, where feasible, the individual Indian landowners by constructive notice or mail.

(b) When this part requires us to notify the parties of our determination to approve or disapprove a right-of-way document, and to provide any right of appeal:

(1) For rights-of-way affecting tribal land, we will notify the applicant and the tribe by mail; and

(2) For rights-of-way affecting individually owned Indian land, we will notify the applicant by mail and the individual Indian landowners by constructive notice, mail, or electronic mail.

§ 169.011 May decisions under this part be appealed?

(a) Appeals from BIA decisions under this part may be taken under part 2 of this chapter, except:

(1) Our decision to disapprove a right-of-way may be appealed only by an Indian landowner.

(2) Our decision to disapprove any other right-of-way document may be appealed only by the Indian landowners or the applicant.

(b) For purposes of appeals from BIA decisions under this part, ''interested party'' is defined as any person whose own direct economic interest is adversely affected by an action or decision.

§ 169.012 How does the Paperwork Reduction Act affect this part?

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–NEW. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Subpart B—Obtaining a Right-of-Way Application

§ 169.101 How do I obtain a right-of-way across tribal or individually owned Indian land?

(a) To obtain a right-of-way across tribal or individually owned Indian land, you must submit a complete application to the BIA office with jurisdiction over the land covered by the right-of-way.

(b) If you must obtain access to Indian land to prepare information required by the application (e.g., to survey), you must obtain the consent of the Indian landowners in the following manner before accessing the land, but our approval to access is not required.

(1) For tribal land, you must obtain written authorization or a permit from the tribe.

(2) For individually owned Indian land, you must notify all Indian landowners and obtain the consent of the Indian landowners of the majority interest under § 169.107. Upon written request, we will provide you with the names, addresses, and percentage of ownership of individual Indian landowners, to allow you to obtain the landowners' consent to survey.

(3) If the BIA will be granting the right-of-way across Indian land under § 169.107(b), then the BIA may grant permission to access the land.

§ 169.102 What must an application for a right-of-way include?

(a) An application for a right-of-way must identify:

(1) The applicant;

(2) The tract(s) or parcel(s) affected by the right-of-way;

(3) The general location of the right-of-way;

(4) The purpose of the right-of-way;

(5) The duration of the right-of-way: and

(6) The ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing permanent improvements under § 169.105.

(b) The following must be submitted with the application:

(1) An accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;

(2) A map of definite location of the right-of-way and existing facilities adjacent to the proposed project, signed by a professional surveyor or engineer (this requirement does not apply to easements covering the entire tract of land);

(3) A bond meeting the requirements of § 169.103;

(4) Record of consent for the right-of-way meeting the requirements of § 169.106 for tribal land, and § 169.107 for individually owned Indian land;

(5) If applicable, a valuation meeting the requirements of § 169.111;

(6) If the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:

(i) The representative has authority to execute the application;

(ii) The right-of-way will be enforceable against the applicant; and

(iii) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located;

(7) Environmental and archeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements.

(c) There is no standard application form.

§ 169.103 What bond must accompany the application?

(a) You must include payment of a performance bond or alternative form of security with your application for a right-of-way in an amount that covers:

(1) The highest annual rental specified in the grant, unless compensation is a one-time payment;

(2) The estimated damages resulting from the construction of any permanent improvements;

(3) The operation and maintenance charges for any land located within an irrigation project; and

(4) The restoration and reclamation of the premises to their condition at the start of the right-of-way or some other specified condition.

(b) The performance bond or other security must be deposited with us and made payable only to us, and may not be modified without our approval, except for tribal land in which case the bond or security may be deposited with and made payable to the tribe, and may not be modified without the approval of the tribe.

(c) The grant will specify the conditions under which we may adjust the security or performance bond requirements to reflect changing conditions, including consultation with the tribal landowner for tribal land before the adjustment.

(d) We may require that the surety provide any supporting documents needed to show that the performance bond or alternative form of security will be enforceable, and that the surety will be able to perform the guaranteed obligations.

(e) The performance bond or other security instrument must require the surety to provide notice to us at least 60 days before canceling a performance bond or other security. This will allow us to notify the grantee of its obligation to provide a substitute performance bond or other security before the cancellation date. Failure to provide a substitute performance bond or security is a violation of the right-of-way.

(f) We may waive the requirement for a performance bond or alternative form of security if the Indian landowners of the majority of the interests request it and we determine a waiver is in the Indian landowners' best interest. For tribal land, we will defer, to the maximum extent possible, to the tribe's determination that a waiver of a performance bond or alternative form of security is in its best interest.

(g) We will accept a performance bond only in one of the following forms:

(1) Certificates of deposit issued by a federally insured financial institution authorized to do business in the United States;

(2) Irrevocable letters of credit issued by a federally insured financial institution authorized to do business in the United States;

(3) Negotiable Treasury securities; or

(4) Surety bonds issued by a company approved by the U.S. Department of the Treasury.

(h) We may accept an alternative form of security approved by us that provides adequate protection for the Indian landowners and us, including but not limited to an escrow agreement and assigned savings account.

(i) All forms of performance bonds or alternative security must, if applicable:

(1) Indicate on their face that BIA approval is required for redemption;

(2) Be accompanied by a statement granting full authority to BIA to make an immediate claim upon or sell them if the grantee violates the right-of-way;

(3) Be irrevocable during the term of the performance bond or alternative security; and

(4) Be automatically renewable during the term of the right-of-way.

(j) We will not accept cash bonds.

§ 169.104 What is the release process for a performance bond or alternative form of security?

Upon expiration, termination, or cancellation of the right-of-way, the grantee may ask BIA in writing to release the performance bond or alternative form of security. Upon receiving the grantee's request, BIA will:

(a) Confirm with the tribe, for tribal land or, where feasible, with the Indian landowners for individually owned Indian land, that the grantee has complied with all grant obligations; and

(b) Release the performance bond or alternative form of security to the grantee, unless we determine that the bond or security must be redeemed to fulfill the contractual obligations.

§ 169.105 What requirements for due diligence must a right-of-way grant include?

(a) If permanent improvements are to be constructed, the right-of-way grant must include due diligence requirements that require the grantee to complete construction of any permanent improvements within the schedule specified in the right-of-way grant or general schedule of construction, and a process for changing the schedule by mutual consent of the parties. If construction does not occur, or is not expected to be completed, within the time period specified in the grant, the grantee must provide the Indian landowners and BIA with an explanation of good cause as to the nature of any delay, the anticipated date of construction of facilities, and evidence of progress toward commencement of construction.

(b) Failure of the grantee to comply with the due diligence requirements of the grant is a violation of the grant and may lead to cancellation of the right-of-way under § 169.408.

(c) BIA may waive the requirements in this section if such waiver is in the best interest of the Indian landowners.

Consent Requirements

§ 169.106 Must I obtain tribal consent for a right-of-way across tribal land?

The applicant must obtain tribal consent, in the form of a tribal authorization, to a grant of right-of-way across tribal land.

§ 169.107 Must I obtain individual Indian landowners' consent to a grant of right-of-way across individually-owned land?

(a) Except as provided in paragraph (b) of this section, the applicant must notify all individual Indian landowners and must obtain consent from the owners of the majority interest in each tract affected by the grant of right-of-way.

(b) We may issue the grant of right-of-way without the consent of any of the individual Indian owners if:

(1) The owners of interests in the land are so numerous that it would be impracticable to obtain consent;

(2) We determine the grant will cause no substantial injury to the land or any landowner;

(3) We determine that all of the landowners will be adequately compensated for consideration and any damages that may arise from a grant of right-of-way; and

(4) We provide notice of our intent to issue the grant of right-of-way to all of the owners at least 30 days prior to the date of the grant using the procedures in § 169.010.

(c) For the purposes of this section, the owners of interests in the land are so numerous that it would be impracticable to obtain consent, where there are:

(1) 50 or more, but less than 100, co-owners of undivided trust or restricted interests, and no one of such co-owners holds a total undivided trust or restricted interest in the parcel that is greater than 10 percent of the entire undivided ownership of the parcel; or

(2) 100 or more co-owners of undivided trust or restricted interests.

(d) The right-of-way will not bind a non-consenting Indian tribe, except with respect to the tribally owned fractional interest, and the non-consenting Indian tribe will not be treated as a party to the right-of-way. Nothing in this paragraph affects the sovereignty or sovereign immunity of the Indian tribe.

(e) Successors are bound by consent granted by their predecessors-in-interest.

§ 169.108 Who is authorized to consent to a right-of-way?

(a) Indian tribes, adult Indian landowners, and emancipated minors, may consent to a right-of-way affecting their land, including undivided interests in fractionated tracts.

(b) The following individuals or entities may consent on behalf of an individual Indian landowner:

(1) An adult with legal custody acting on behalf of his or her minor children;

(2) A guardian, conservator, or other fiduciary appointed by a court of competent jurisdiction to act on behalf of an individual Indian landowner;

(3) Any person who is authorized to practice before the Department of the Interior under 43 CFR 1.3(b) and has been retained by the Indian landowner for this purpose;

(4) BIA, under the circumstances in paragraph (c) of this section; or

(5) An adult or legal entity who has been given a written power of attorney that:

(i) Meets all of the formal requirements of any applicable law under § 169.008;

(ii) Identifies the attorney-in-fact; and

(iii) Describes the scope of the powers granted, to include granting rights-of-way on land, and any limits on those powers.

(c) BIA may give written consent to a right-of-way, as long as we determine that the grant will cause no substantial injury to the land or any landowner, and that consent must be counted in the majority interest under § 169.107, on behalf of:

(1) The individual owner, if the owner is deceased, and the heirs to, or devisees of, the interest of the deceased owner have not been determined;

(2) An individual whose whereabouts are unknown to us, after we make a

reasonable attempt to locate the individual;

(3) An individual who is found to be non compos mentis or determined to be an adult in need of assistance who does not have a guardian duly appointed by a court of competent jurisdiction, or an individual under legal disability as defined in part 115 of this chapter;

(4) An orphaned minor who does not have a guardian duly appointed by a court of competent jurisdiction; and

(5) An individual who has given us a written power of attorney to consent to a right-of-way of their land.

Compensation Requirements

§ 169.109 How much monetary compensation must be paid for a right-of-way affecting tribal land?

(a) A right-of-way affecting tribal land may allow for any payment amount negotiated by the tribe, and we will defer to the tribe and not require a valuation if the tribe submits a tribal authorization expressly stating that it:

(1) Has negotiated compensation satisfactory to the tribe;

(2) Waives valuation; and

(3) Has determined that accepting such negotiated compensation and waiving valuation is in its best interest.

(b) The tribe may request, in writing, that we determine market value, in which case we will use a valuation in accordance with § 169.111. After providing the tribe with the market value, we will defer to a tribe's decision to allow for any compensation negotiated by the tribe.

(c) If the conditions in paragraph (a) or (b) of this section are not met, we will require that the grantee provide for market value based on a valuation in accordance with § 169.111.

§ 169.110 How much monetary compensation must be paid for a right-of-way affecting individually owned Indian land?

(a) A right-of-way affecting individually owned Indian land must require payment of not less than market value before any adjustments, based on a fixed amount, a percentage of the projected income, or some other method, unless paragraphs (b) or (c) of this section permit a lesser amount. The grant must establish how the fixed amount, percentage, or combination will be calculated and the frequency at which the payments will be made. Compensation will include market value and may include additional fees, such as throughput fees, severance damages, franchise fees, avoidance value, bonuses, or other factors.

(b) We may approve a right-of-way affecting individually owned Indian land that provides for the payment of nominal compensation, or less than a market value, if:

(1) The Indian landowners execute a written waiver of the right to receive market value; and

(2) We determine it is in the Indian landowners' best interest, based on factors including, but not limited to:

(i) The grantee is a member of the immediate family, as defined in § 169.002, of an individual Indian landowner;

(ii) The grantee is a co-owner in the affected tract;

(iii) A special relationship or circumstances exist that we believe warrant approval of the right-of-way; or

(iv) We have waived the requirement for a valuation under paragraph (d) of this section.

(c) We will require a valuation, unless:

(1) 100 percent of the Indian landowners submit to us a written request to waive the valuation requirement; or

(2) We waive the requirement under paragraph (d) of this section.

(d) The grant must provide that the non-consenting Indian landowners, and those on whose behalf we have consented under § 169.108(c), or granted the right-of-way without consent under § 169.107(b), receive market value, as determined by a valuation, unless we waive the requirement because the tribe or grantee will construct infrastructure improvements benefitting the Indian landowners, and we determine it is in the best interest of all the landowners.

§ 169.111 How will BIA determine market value for a right-of-way?

(a) We will use a market analysis, appraisal, or other appropriate valuation method to determine the market value before we grant a right-of-way affecting individually owned Indian land or, at the request of the tribe, for tribal land.

(b) We will either:

(1) Prepare, or have prepared, a market analysis, appraisal, or other appropriate valuation method; or

(2) Use an approved market analysis, appraisal, or other appropriate valuation method from the Indian landowners or grantee.

(c) We will use or approve use of a market analysis, appraisal, or other appropriate valuation method only if it:

(1) Has been prepared in accordance with USPAP or a valuation method developed by the Secretary under 25 U.S.C. 2214 and complies with Departmental policies regarding appraisals, including third-party appraisals; or

(2) Has been prepared by another Federal agency.

§ 169.112 When are monetary compensation payments due under a right-of-way?

(a) If compensation is a one-time, lump sum payment, the grantee must make the payment within 10 days of our grant of the right-of-way.

(b) If compensation is to be paid in increments, the right-of-way grant must specify the dates on which all payments are due. Payments are due at the time specified in the grant, regardless of whether the grantee receives an advance billing or other notice that a payment is due. Increments may not be more frequent than quarterly.

§ 169.113 Must a right-of-way specify who receives monetary compensation payments?

(a) A right-of-way grant must specify whether the grantee will make payments directly to the Indian landowners (direct pay) or to us on their behalf.

(b) The grantee may make payments directly to the Indian landowners if:

(1) The Indian landowners' trust accounts are encumbered accounts;

(2) There are 10 or fewer beneficial owners; and

(3) One hundred percent of the beneficial owners (including those on whose behalf we have consented) agree to receive payment directly from the grantee at the start of the right-of-way.

(c) If the right-of-way document provides that the grantee will directly pay the Indian landowners, then:

(1) The right-of-way document must include provisions for proof of payment upon our request.

(2) When we consent on behalf of an Indian landowner, the grantee must make payment to us on behalf of that landowner.

(3) The grantee must send direct payments to the parties and addresses specified in the right-of-way, unless the grantee receives notice of a change of ownership or address.

(4) Unless the right-of-way document provides otherwise, payments may not be made payable directly to anyone other than the Indian landowners.

(5) Direct payments must continue through the duration of the right-of-way, except that:

(i) The grantee must make all Indian landowners' payments to us if 100 percent of the Indian landowners agree to suspend direct pay and provide us with documentation of their agreement; and

(ii) The grantee must make an individual Indian landowner's payment to us if that individual Indian landowner dies, is declared non compos mentis, owes a debt resulting in an encumbered account, or his or her whereabouts become unknown.

§ 169.114 What form of monetary compensation is acceptable under a right-of-way?

(a) Our preferred method of payment is electronic funds transfer payments. We will also accept:

(1) Money orders;

(2) Personal checks;

(3) Certified checks; or

(4) Cashier's checks.

(b) We will not accept cash or foreign currency.

(c) We will accept third-party checks only from financial institutions or Federal agencies.

§ 169.115 May the right-of-way provide for non-monetary or varying types of compensation?

(a) A right-of-way grant may provide for the following, subject to the conditions in paragraphs (b) and (c) of this section:

(1) Alternative forms of compensation, including but not limited to, in-kind consideration and payments based on throughput or percentage of income; or

(2) Varying types of compensation at specific stages during the life of the right-of-way grant, including but not limited to, fixed annual payments during construction, payments based on income during an operational period, and bonuses.

(b) For tribal land, we will defer to the tribe's determination that the compensation under paragraph (a) of this section is in its best interest, if the tribe submits a signed certification or tribal authorization stating that it has determined the compensation under paragraph (a) of this section to be in its best interest.

(c) For individually owned land, we may grant a right-of-way that provides for compensation under paragraph (a) of this section if we determine that it is in the best interest of the Indian landowners.

§ 169.116 Will BIA notify a grantee when a payment is due for a right-of-way?

Upon request of the Indian landowners, we may issue invoices to a grantee in advance of the dates on which payments are due under the right-of-way. The grantee's obligation to make these payments in a timely manner will not be excused if invoices are not issued, delivered, or received.

§ 169.117 Must a right-of-way grant provide for compensation reviews or adjustments?

(a) For a right-of-way grant affecting tribal land, no periodic review of the adequacy of compensation or adjustment is required, unless the tribe negotiates for reviews or adjustments.

(b) For a right-of-way grant of individually owned Indian land, no periodic review of the adequacy of compensation or adjustment is required if:

(1) Payment is a one-time lump sum;

(2) The term of the right-of-way grant is 5 years or less;

(3) The grant provides for automatic adjustments; or

(4) We determine it is in the best interest of the Indian landowners not to require a review or automatic adjustment based on circumstances including, but not limited to, the following:

(i) The right-of-way grant provides for payment of less than market value;

(ii) The right-of-way grant provides for most or all of the compensation to be paid during the first 5 years of the grant term or before the date the review would be conducted; or

(iii) The right-of-way grant provides for graduated rent or non-monetary or varying types of compensation.

(c) If the conditions in paragraph (b) of this section are not met, a review of the adequacy of compensation must occur at least every fifth year, in the manner specified in the grant. The grant must specify:

(1) When adjustments take effect;

(2) Who can make adjustments;

(3) What the adjustments are based on; and

(4) How to resolve disputes arising from the adjustments.

(d) When a review results in the need for adjustment of compensation, the Indian landowners must consent to the adjustment in accordance with § 169.107, unless the grant provides otherwise.

§ 169.118 What other types of payments are required for a right-of-way?

(a) The grantee may be required to pay additional fees, taxes, and assessments associated with the use of the land, as determined by entities having jurisdiction, except as provided in § 169.009. The grantee must pay these amounts to the appropriate office.

(b) In addition to the compensation for a right-of-way provided for in paragraph (a) of this section, the applicant for a right-of-way will be required to pay all damages incident to the survey of the right-of-way or incident to the construction or maintenance of the facility for which the right-of-way is granted.

Grants of Rights-of-Way

§ 169.119 What is the process for BIA to grant a right-of-way?

(a) Before we grant a right-of-way, we must determine that the right-of-way is in the best interest of the Indian landowners. In making that determination, we will:

(1) Review the right-of-way application and supporting documents;

(2) Identify potential environmental impacts and ensure compliance with all applicable environmental laws, land use laws, and ordinances; and

(3) Require any modifications or mitigation measures necessary to satisfy any requirements including any other Federal or tribal land use requirements.

(b) Upon receiving a right-of-way application, we will promptly notify the applicant whether the package is complete. A complete package includes all the information and supporting documents required under this subpart, including but not limited to, an accurate legal description for each affected tract, NEPA review documentation and valuation documentation, where applicable.

(1) If the right-of-way application package is not complete, our letter will identify the missing information or documents required for a complete package. If we do not respond to the submission of an application package, the parties may take action under § 169.304.

(2) If the right-of-way application package is complete, we will notify the parties of the date of our receipt of the complete package. Within 60 days of that receipt date, we will grant or deny the right-of-way, return the package for revision, or inform the applicant in writing that we need additional review time. If we inform the applicant in writing that we need additional time, then:

(i) Our letter informing the applicant that we need additional review time must identify our initial concerns and invite the applicant to respond within 15 days of the date of the letter; and

(ii) We have 30 days from sending the letter informing the applicant that we need additional time to grant or deny the right-of-way.

(c) If we do not meet the deadlines in this section, then the applicant may take appropriate action under § 169.304.

(d) We will provide any right-of-way grant or denial and the basis for the determination, along with notification of any appeal rights under part 2 of this chapter to the parties to the right-of-way. If the right-of-way is granted, we will provide a copy of the right-of-way to the tribal landowner and, upon written request, make copies available to the individual Indian landowners.

§ 169.120 How will BIA determine whether to grant a right-of-way?

(a) We will grant a right-of-way unless:

(1) The required consents have not been obtained from the parties to the right-of-way under § 169.106 and § 169.107;

(2) The requirements of this subpart have not been met; or

(3) We find a compelling reason to withhold the grant in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian landowners' determination that the right-of-way is in their best interest.

(c) We may not unreasonably withhold our grant of a right-of-way.

(d) We may grant one right-of-way for all of the tracts traversed by the right-of-way, or we may issue separate grants for one or more tracts traversed by the right-of-way.

§ 169.121 What will the grant of right-of-way contain?

(a) The grant will incorporate the conditions or restrictions set out in the consents obtained pursuant to § 169.106 for tribal land and § 169.107 for individually owned Indian land

(b) The grant will state that:

(1) The grantee has no right to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources, unless otherwise provided for in the grant;

(2) BIA may treat any provision of a grant that violates Federal law as a violation of the grant; and

(3) The grantee must:

(i) Construct and maintain the right-of-way in a professional manner consistent with industry standards;

(ii) Pay promptly all damages and compensation, in addition to the performance bond or alternative form of security made pursuant to § 169.103, determined by the BIA to be due the landowners and authorized users and occupants of land as a result of the granting, construction, and maintenance of the right-of-way;

(iii) Restore the land as nearly as may be possible to its original condition, upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted, unless otherwise negotiated by the parties;

(iv) Clear and keep clear the land within the right-of-way, to the extent compatible with the purpose of the right-of-way, and dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project;

(v) Comply with all applicable laws and obtain all required permits;

(vi) Not commit waste;

(vii) Repair and maintain improvements consistent with the right-of-way grant;

(viii) Build and maintain necessary and suitable crossings for all roads and trails that intersect the improvements constructed, maintained, or operated under the right-of-way;

(ix) Restore land to its original condition, as much as reasonably possible, upon revocation or termination of the right-of-way, unless otherwise negotiated by the parties;

(x) At all times keep the BIA informed of the grantee's address;

(xi) Refrain from interfering with the landowner's use of the land, provided that the landowner's use of the land is not inconsistent with the right-of-way; and

(xii) Comply with due diligence requirements under § 169.105.

(4) Unless the grantee would be prohibited by law from doing so, the grantee must also:

(i) Hold the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the applicant's use or occupation of the premises; and

(ii) Indemnify the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge of any hazardous material from the premises that occurs during the term of the grant, regardless of fault, with the exception that the applicant is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.

(c) The grant must attach or incorporate by reference maps of definite location reviewed in accordance with the Standards for Indian Trust Land Boundary Evidence.

§ 169.122 May a right-of-way contain a preference consistent with tribal law for employment of tribal members?

A grant of right-of-way over Indian land may include a provision, consistent with tribal law, requiring the grantee to give a preference to qualified tribal members, based on their political affiliation with the tribe.

§ 169.123 Is a new right-of-way grant required for a new use within or overlapping an existing right-of-way?

(a) If you propose to use all or a portion of an existing right-of-way for a use not specified in the original grant of the existing right-of-way, or not within the same scope of the use specified in the original grant of the existing right-of-way, you must request a new right-of-way within or overlapping the existing right-of-way for the new use.

(b) We may grant a new right-of-way within or overlapping an existing right-of-way if it meets the following conditions:

(1) The applicant follows the procedures and requirements in this part to obtain a new right-of-way.

(2) The new right-of-way does not interfere with the use or purpose of the existing right-of-way or the applicant has obtained the consent of the existing right-of-way grantee. The existing right-of-way grantee may not unreasonably withhold consent.

(3) If the existing right-of-way was granted under the Act of March 3, 1901, 25 U.S.C. 311, to a State or local authority for public highways, before the effective date of this part, we may grant the new right-of-way only if it is not prohibited by State law.

§ 169.124 What is required if the location described in the original application and grant of right-of-way differs from the construction location?

(a) If there were engineering or other complications that prevented construction within the location identified in the original application and grant, we will determine whether the change in location requires one or more of the following:

(1) An amended map of definite location;

(2) Landowner consent;

(3) A valuation;

(4) Additional compensation; and/or

(5) A new right-of-way grant.

(b) If we grant a right-of-way for the new route or location, the applicant must execute instruments to extinguish the right-of-way at the original location identified in the application.

(c) We will transmit the instruments to extinguish the right-of-way to the LTRO for recording.

Subpart C—Term, Renewals, Amendments, Assignments, Mortgages

§ 169.201 How long may the term of a right-of-way grant be?

(a) All rights-of-way granted under this part are limited to the time periods stated in the grant.

(b) For tribal land, we will defer to the tribe's determination that the right-of-way term, including any renewal, is reasonable.

(c) For individually owned Indian land, we will review the right-of-way

term, including any renewal, to ensure that it is reasonable, given the purpose of the right-of-way. We will use the following table as guidelines for what terms are reasonable given the purpose of the right-of-way:

Purpose	Term
Railroads	In Perpetuity.
Public roads and highways	In Perpetuity.
Access roads	25 years, with renewal option.
Service roads and trails essential to any other right-of-way purpose	Consistent with use.
Public and community water lines (including pumping stations and appurtenant facilities)	In Perpetuity.
Utility Gas Lines	In Perpetuity.
Public sanitary and storm sewer lines including sewage disposal and treatment plants	In Perpetuity.
Water control and use projects (including but not limited to dams, reservoirs, flowage easements, irrigation/ditches and canals and water treatment plants).	In Perpetuity.
Oil and gas pipelines	20 years.
Electric power projects, generating plants, switchyards, electric transmission and distribution lines (including poles, towers, and appurtenant facilities).	50 years.
Telecommunication lines	30 years.
Broadband or fiber optic lines	30 years.
Avigation hazard easements	20 years.
Conservation easements	Consistent with use.

(c) Unless the right-of-way grant provides otherwise, a right-of-way may not be extended by holdover.

§ 169.202 Under what circumstances will a grant of right-of-way be renewed?

(a) The grantee may request a renewal (an extension of term without any other change) of an existing right-of-way grant and we will renew the grant as long as:

(1) The original right-of-way grant allows for renewal and specifies any compensation;

(2) The grantee provides us with a signed attestation that there is no change in size, type, location, or duration of the right-of-way; and

(3) The grantee provides us with confirmation that landowner consent has been obtained, unless it is not required under paragraph (b) of this section.

(b) Consent is not required if the original right-of-way grant allows for renewal without the owners' consent.

(c) We will record any renewal of a right-of-way grant in the LTRO.

(d) If the proposed renewal involves a change in size, type, location, or duration of the right-of-way, the grantee must reapply for a new right-of-way, in accordance with § 169.101, and we will handle the application for renewal as an original application for a right-of-way.

§ 169.203 May a right-of-way be renewed multiple times?

There is no prohibition on renewing a right-of-way multiple times.

Amendments

§ 169.204 May a grantee amend a right-of-way?

(a) A grantee may request that we amend a right-of-way grant if the grantee meets the consent requirements in § 169.106 for tribal land or § 169.107 for individually owned Indian land and obtains our approval, except that a grantee may request that we amend a right-of-way to correct a legal description or make other technical corrections without meeting consent requirements.

(b) An amendment is required to change any provisions of a right-of-way grant or to accommodate a change in the location of permanent improvements to previously unimproved land within the right-of-way corridor.

§ 169.205 What is the approval process for an amendment of a right-of-way?

(a) When we receive an amendment for our approval, we will notify the parties of the date we receive it. If our approval is required, we have 30 days from receipt of the executed amendment, proof of required consents, and required documentation (including but not limited to a corrected legal description, if any, and NEPA compliance) to approve or disapprove the amendment or inform the parties in writing that we need additional review time. Our determination whether to approve the amendment will be in writing and will state the basis for our approval or disapproval.

(b) Our letter informing the parties that we need additional review time must identify our initial concerns and invite the parties to respond within 15 days of the date of the letter. We have 30 days from sending the letter informing the parties that we need additional time to approve or disapprove the amendment.

(c) If we do not meet the deadline in paragraph (a) of this section, or paragraph (b) of this section if applicable, the grantee or Indian landowners may take appropriate action under § 169.304.

§ 169.206 How will BIA decide whether to approve an amendment of a right-of-way?

(a) We may disapprove a request for an amendment of a right-of-way only if at least one of the following is true:

(1) The Indian landowners have not consented;

(2) The grantee's sureties have not consented;

(3) The grantee is in violation of the right-of-way grant;

(4) The requirements of this subpart have not been met; or

(5) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian landowners' determination that the amendment is in their best interest.

(c) We may not unreasonably withhold approval of an amendment.

Assignments

§ 169.207 May a grantee assign a right-of-way?

(a) A grantee may assign a right-of-way by meeting the consent requirements in § 169.106 for tribal land or § 169.107 for individually owned Indian land and obtaining our approval, or by meeting the conditions in paragraph (b).

(b) A grantee may assign a right-of-way without BIA approval only if:

(1) The original right-of-way grant allows for assignment without BIA approval; and

(2) The assignee and grantee provide a copy of the assignment and supporting documentation to BIA for recording in the LTRO.

§ 169.208 What is the approval process for an assignment of a right-of-way?

(a) When we receive an assignment for our approval, we will notify the

parties of the date we receive it. If our approval is required, we have 30 days from receipt of the executed assignment, proof of required consents, and required documentation to approve or disapprove the assignment. Our determination whether to approve the assignment will be in writing and will state the basis for our approval or disapproval.

(b) If we do not meet the deadline in this section, the grantee or Indian landowners may take appropriate action under § 169.304.

§ 169.209 How will BIA decide whether to approve an assignment of a right-of-way?

(a) We may disapprove an assignment of a right-of-way only if at least one of the following is true:

(1) The Indian landowners have not consented and their consent is required;

(2) The grantee's sureties have not consented;

(3) The grantee is in violation of the right-of-way grant;

(4) The assignee does not agree to be bound by the terms of the right-of-way grant;

(5) The requirements of this subpart have not been met; or

(6) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian landowners' determination that the assignment is in their best interest.

(c) We may not unreasonably withhold approval of an assignment.

Mortgages

§ 169.210 May a grantee mortgage a right-of-way?

A grantee may mortgage a right-of-way by meeting the consent requirements in § 169.106 for tribal land or § 169.107 for individually owned Indian land and obtaining our approval.

§ 169.211 What is the approval process for a mortgage of a right-of-way?

(a) When we receive a right-of-way mortgage for our approval, we will notify the parties of the date we receive it. We have 30 days from receipt of the executed mortgage, proof of required consents, and required documentation to approve or disapprove the mortgage. Our determination whether to approve the mortgage will be in writing and will state the basis for our approval or disapproval.

(b) If we do not meet the deadline in this section, the grantee or Indian landowners may take appropriate action under § 169.304.

§ 169.212 How will BIA decide whether to approve a mortgage of a right-of-way?

(a) We may disapprove a right-of-way mortgage only if at least one of the following is true:

(1) The Indian landowners have not consented;

(2) The grantee's mortgagees or sureties have not consented;

(3) The requirements of this subpart have not been met; or

(4) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) In making the finding required by paragraph (a)(4) of this section, we may consider whether:

(1) The mortgage proceeds would be used for purposes unrelated to the right-of-way purpose; and

(2) The mortgage is limited to the right-of-way.

(c) We will defer, to the maximum extent possible, to the Indian landowners' determination that the mortgage is in their best interest.

(d) We may not unreasonably withhold approval of a right-of-way mortgage.

Subpart D—Effectiveness

§ 169.301 When will a right-of-way document be effective?

A right-of-way document will be effective on the date we approve the right-of-way document, even if an appeal is filed under part 2 of this chapter.

§ 169.302 Must a right-of-way be recorded?

(a) Any right-of-way document must be recorded in our LTRO with jurisdiction over the affected Indian land.

(1) We will record the right-of-way document immediately following our approval or granting.

(2) In the case of assignments that do not require our approval under § 169.207(b), the parties must provide us with a copy of the assignment and we will record the assignment in the LTRO with jurisdiction over the affected Indian land.

(b) The tribe must record right-of-way documents for the following types of rights-of-way in the LTRO with jurisdiction over the affected Indian lands, even though BIA approval is not required:

(1) Grants on tribal land for a tribal utility that is not a separate legal entity under § 169.004;

(2) Grants on tribal land under a special act of Congress authorizing grants without our approval under certain conditions.

§ 169.303 What happens if BIA denies a right-of-way document?

If we deny the right-of-way grant, renewal, amendment, assignment, or mortgage, we will notify the parties immediately and advise the landowners of their right to appeal the decision under part 2 of this chapter.

§ 169.304 What happens if BIA does not meet a deadline for issuing a decision on a right-of-way document?

(a) If a Superintendent does not meet a deadline for granting or denying a right-of-way, renewal, amendment, assignment, or mortgage, the parties may file a written notice to compel action with the appropriate Regional Director.

(b) The Regional Director has 15 days from receiving the notice to:

(1) Grant or deny the right-of-way; or

(2) Order the Superintendent to grant or deny the right-of-way within the time set out in the order.

(c) The parties may file a written notice to compel action with the BIA Director if:

(1) The Regional Director does not meet the deadline in paragraph (b) of this section;

(2) The Superintendent does not grant or deny the right-of-way within the time set by the Regional Director under paragraph (b)(2) of this section; or

(3) The initial decision on the right-of-way, renewal, amendment, assignment, or mortgage is with the Regional Director, and he or she does not meet the deadline for such decision.

(d) The BIA Director has 15 days from receiving the notice to:

(1) Grant or deny the right-of-way; or

(2) Order the Regional Director or Superintendent to grant or deny the right-of-way within the time set out in the order.

(e) If the Regional Director or Superintendent does not grant or deny the right-of-way within the time set out in the order under paragraph (d)(2), then the BIA Director must issue a decision within 15 days from the expiration of the time set out in the order.

(f) The parties may file an appeal from our inaction to the Interior Board of Indian Appeals if the Director does not meet the deadline in paragraph (d) or (e) of this section.

(g) The provisions of 25 CFR 2.8 do not apply to the inaction of BIA officials with respect to a granting or denying a right-of-way, renewal, amendment, assignment, or mortgage under this subpart.

§ 169.305 Will BIA require an appeal bond for an appeal of a decision on a right-of-way document?

(a) If a party appeals our decision on a right-of-way document, then the official to whom the appeal is made may require the appellant to post an appeal bond in accordance with part 2 of this chapter. We will not require an appeal bond if the tribe is a party to the appeal and requests a waiver of the appeal bond.

(b) The appellant may not appeal the appeal bond decision. The appellant may, however, request that the official to whom the appeal is made reconsider the bond decision, based on extraordinary circumstances. Any reconsideration decision is final for the Department.

Subpart E—Compliance and Enforcement

§ 169.401 What is the purpose and scope of this subpart?

This subpart describes the procedures we use to address compliance and enforcement related to rights-of-way on Indian land. Any abandonment, non-use, or violation of the right-of-way grant, including but not limited to encroachments beyond the defined boundaries, accidental, willful, and/or incidental trespass, unauthorized new construction or changes in use, and late or insufficient payment may result in enforcement actions.

§ 169.402 May BIA investigate compliance with a right-of-way?

BIA may investigate compliance with a right-of-way.

(a) If an Indian landowner notifies us that a specific abandonment, non-use, or violation has occurred, we will promptly initiate an appropriate investigation.

(b) We may enter the Indian land subject to a right-of-way at any reasonable time, upon reasonable notice, and consistent with any notice requirements under applicable tribal law and applicable grant documents, to protect the interests of the Indian landowners and to determine if the grantee is in compliance with the requirements of the right-of-way.

§ 169.403 May a right-of-way provide for negotiated remedies?

(a) The tribe and the grantee on tribal land may negotiate remedies for the event of a violation, abandonment, or non-use. The negotiated remedies must be stated in the tribe's consent to the right-of-way grant. The negotiated remedies may include, but are not limited to, the power to terminate the right-of-way grant. If the negotiated remedies provide one or both parties with the power to terminate the grant:

(1) BIA approval of the termination is not required;

(2) The termination is effective without BIA cancellation; and

(3) The Indian landowners must provide us with written notice of the termination so that we may record it in the LTRO.

(b) The Indian landowners and the grantee to a right-of-way grant on individually owned Indian land may negotiate remedies, so long as the consent also specifies the manner in which those remedies may be exercised by or on behalf of the Indian landowners of the majority interest under § 169.107 of this part. If the negotiated remedies provide one or both parties with the power to terminate the grant:

(1) BIA concurrence with the termination is required to ensure that the Indian landowners of the applicable percentage of interests have consented; and

(2) BIA will record the termination in the LTRO.

(c) The parties must notify any surety or mortgagee of any violation that may result in termination and the termination of a right-of-way.

(d) Negotiated remedies may apply in addition to, or instead of, the cancellation remedy available to us, as specified in the right-of-way grant. The landowners may request our assistance in enforcing negotiated remedies.

(e) A right-of-way grant may provide that violations will be addressed by a tribe, and that disputes will be resolved by a tribal court, any other court of competent jurisdiction, or by a tribal governing body in the absence of a tribal court, or through an alternative dispute resolution method. We may not be bound by decisions made in such forums, but we will defer to ongoing actions or proceedings, as appropriate, in deciding whether to exercise any of the remedies available to us.

§ 169.404 What will BIA do about a violation of a right-of-way grant?

(a) In the absence of actions or proceedings described in § 169.403 (negotiated remedies), or if it is not appropriate for us to defer to the actions or proceedings, we will follow the procedures in paragraphs (b) and (c) of this section.

(b) If we determine there has been a violation of the conditions of a grant, other than a violation of payment provisions covered by paragraph (c) of this section, we will promptly send the grantee a written notice of violation.

(1) We will send a copy of the notice of violation to the tribe for tribal land, or provide constructive notice to Indian landowners for individually owned Indian land.

(2) The notice of violation will advise the grantee that, within 10 business days of the receipt of a notice of violation, the grantee must:

(i) Cure the violation and notify us, and the tribe for tribal land, in writing that the violation has been cured;

(ii) Dispute our determination that a violation has occurred; or

(iii) Request additional time to cure the violation.

(3) The notice of violation may order the grantee to cease operations under the right-of-way grant.

(c) A grantee's failure to pay compensation in the time and manner required by a right-of-way grant is a violation, and we will issue a notice of violation in accordance with this paragraph.

(1) We will send the grantees a written notice of violation promptly following the date on which the payment was due.

(2) We will send a copy of the notice of violation to the tribe for tribal land, or provide constructive notice to the Indian landowners for individually owned Indian land.

(3) The notice of violation will require the grantee to provide adequate proof of payment.

(d) The grantee will continue to be responsible for the obligations in the grant until the grant expires, or is terminated or cancelled.

§ 169.405 What will BIA do if the grantee does not cure a violation of a right-of-way grant on time?

(a) If the grantee does not cure a violation of a right-of-way grant within the required time period, or provide adequate proof of payment as required in the notice of violation, we will consult with the tribe for tribal land or, where feasible, with Indian landowners for individually owned Indian land, and determine whether:

(1) We should cancel the grant;

(2) The Indian landowners wish to invoke any remedies available to them under the grant;

(3) We should invoke other remedies available under the grant or applicable law, including collection on any available performance bond or, for failure to pay compensation, referral of the debt to the Department of the Treasury for collection; or

(4) The grantee should be granted additional time in which to cure the violation.

(b) Following consultation with the tribe for tribal land or, where feasible, with Indian landowners for individually

owned Indian land, we may take action to recover unpaid compensation and any associated late payment charges.

(1) We do not have to cancel the grant or give any further notice to the grantee before taking action to recover unpaid compensation.

(2) We may still take action to recover any unpaid compensation if we cancel the grant.

(c) If we decide to cancel the grant, we will send the grantee a cancellation letter by certified mail, return receipt requested, within 5 business days of our decision. We will send a copy of the cancellation letter to the tribe for tribal land, and will provide Indian landowners for individually owned Indian land with actual or constructive notice of the cancellation. The cancellation letter will:

(1) Explain the grounds for cancellation;

(2) If applicable, notify the grantee of the amount of any unpaid compensation or late payment charges due under the grant;

(3) Notify the grantee of the grantee's right to appeal under part 2 of this chapter, including the possibility that the official to whom the appeal is made may require the grantee to post an appeal bond;

(4) Order the grantee to vacate the property within 31 days of the date of receipt of the cancellation letter, if an appeal is not filed by that time; and

(5) Order the grantee to take any other action BIA deems necessary to protect the Indian landowners.

(d) We may invoke any other remedies available to us under the grant, including collecting on any available performance bond, and the Indian landowners may pursue any available remedies under tribal law.

§ 169.406 Will late payment charges, penalties, or special fees apply to delinquent payments due under a right-of-way grant?

(a) Late payment charges and penalties will apply as specified in the grant. The failure to pay these amounts will be treated as a violation.

(b) We may assess the following special fees to cover administrative costs incurred by the United States in the collection of the debt, if compensation is not paid in the time and manner required, in addition to the late payment charges that must be paid to the Indian landowners under the grant:

The grantee will pay . . .	For . . .
(1) $50.00	Any dishonored check.
(2) $15.00	Processing of each notice or demand letter.
(3) 18 percent of balance due	Treasury processing following referral for collection of delinquent debt.

§ 169.407 How will payment rights relating to a right-of-way grant be allocated?

The right-of-way grant may allocate rights to payment for any proceeds, trespass damages, condemnation awards, settlement funds, and other payments between the Indian landowners and the grantee. If not specified in the grant, applicable policy, order, award, judgment, or other document, the Indian landowners or grantees will be entitled to receive these payments.

§ 169.408 What is the process for cancelling a right-of-way for non-use or abandonment?

(a) We may cancel, in whole or in part, any rights-of-way granted under this part 30 days after mailing written notice to the grantee at its latest address, for any of the following causes:

(1) A nonuse of the right-of-way for a consecutive 2-year period for the purpose for which it was granted; or

(2) An abandonment of the right-of-way.

(b) If the grantee fails to correct the basis for cancellation by the 30th day after we mailed the notice, we will issue an appropriate instrument cancelling the right-of-way and transmit it to the office of record pursuant to 25 CFR part 150 for recording and filing.

§ 169.409 When will a cancellation of a right-of-way grant be effective?

(a) A cancellation involving a right-of-way grant will not be effective until 31 days after the grantee receives a cancellation letter from us, or 41 days from the date we mailed the letter, whichever is earlier.

(b) The cancellation decision will not be effective if an appeal is filed unless the cancellation is made immediately effective under part 2 of this chapter. While a cancellation decision is ineffective, the grantee must continue to pay compensation and comply with the other terms of the grant.

§ 169.410 What will BIA do if a grantee remains in possession after a right-of-way expires or is terminated or cancelled?

If a grantee remains in possession after the expiration, termination, or cancellation of a right-of-way, we may treat the unauthorized possession as a trespass under applicable law in consultation with the Indian landowners. Unless the Indian landowners of the applicable percentage of interests under § 169.106 or 169.107 have notified us in writing that they are engaged in good faith negotiations with the holdover grantee to renew or obtain a new right-of-way, we may take action to recover possession on behalf of the Indian landowners, and pursue any additional remedies available under applicable law, such as a forcible entry and detainer action.

§ 169.411 Will BIA appeal bond regulations apply to cancellation decisions involving right-of-way grants?

(a) Except as provided in paragraph (b) of this section, the appeal bond provisions in part 2 of this chapter will apply to appeals from right-of-way cancellation decisions.

(b) The grantee may not appeal the appeal bond decision. The grantee may, however, request that the official to whom the appeal is made reconsider the appeal bond decision, based on extraordinary circumstances. Any reconsideration decision is final for the Department.

§ 169.412 What if an individual or entity takes possession of or uses Indian land without a right-of-way or other proper authorization?

If an individual or entity takes possession of, or uses, Indian land without a right-of-way and a right-of-way is required, the unauthorized possession or use is a trespass. An unauthorized use within an existing right-of-way is also a trespass. We may take action to recover possession, including eviction, on behalf of the Indian landowners and pursue any additional remedies available under applicable law. The Indian landowners may pursue any available remedies under applicable law.

Subpart F—Service Line Agreements

§ 169.501 Is a right-of-way required for service lines?

A right-of-way is not required for service lines. Service line agreements are for the purpose of supplying the owners (or authorized occupants or users, as demonstrated by a lease or tribal authorization) of tribal or

individually owned Indian land with utilities for use by such owners (or occupants or users) on the premises. A service line agreement should address the mitigation of any damages incurred during construction and the restoration of the premises at the termination of the agreement.

§ 169.502 What are the consent requirements for service line agreements?

(a) Before the applicant may begin any work to construct service lines across tribal land, the applicant and the tribe (or the legally authorized occupants or users of the tribal land and the tribe) must execute a service line agreement.

(b) Before the applicant may begin any work to construct service lines across individually owned land, the applicant and the owners (or the legally authorized occupants or users) must execute a service line agreement.

§ 169.503 Is a valuation required for service line agreements?

We do not require a valuation for service line agreements.

§ 169.504 Must I file service line agreements with the BIA?

The parties must file an executed copy of service line agreements, together with a plat or diagram, with us within 30 days after the date of execution for recording in the LTRO. The plat or diagram must show the boundary of the ownership parcel and point of connection with the distribution line. When the plat or diagram is placed on a separate sheet it must include the signatures of the parties.

Dated: June 2, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–13964 Filed 6–16–14; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2014–0005; Notice No. 143]

RIN 1513–AC07

Proposed Expansion of the Fair Play Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to expand the approximately 33-square mile ''Fair Play'' viticultural area in El Dorado County, California, by approximately 1,200 acres (approximately 2 square miles). The established Fair Play viticultural area and the proposed expansion area are located entirely within the larger El Dorado and Sierra Foothills viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by August 18, 2014.

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- *Internet: http://www.regulations.gov* (via the online comment form for this notice as posted within Docket No. TTB–2014–0005 at ''Regulations.gov,'' the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand Delivery/Courier In Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or obtain copies of the petition and supporting materials.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing the establishment of an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same procedures to request changes involving existing AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for modifying established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the region within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;
- An explanation of the basis for defining the boundary of the proposed expansion area;

• A narrative description of the features of the proposed expansion area affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;

• The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and

• A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

Petition To Expand the Fair Play AVA

TTB received a petition from Randy and Tina Rossi, owners of Saluti Cellars winery and vineyard, proposing to expand the established ''Fair Play'' AVA in northern California. The Fair Play AVA (27 CFR 9.168) was established by T.D. ATF–440, which was published in the **Federal Register** on February 26, 2001 (66 FR 11539). The Fair Play AVA covers approximately 33 square miles in southern El Dorado County, California, around the small, unincorporated community of Fair Play, and the AVA contains approximately 250 acres of commercially-producing vineyards.

The proposed expansion area is adjacent to the northeast corner of the existing Fair Play AVA boundary and covers approximately 1,200 acres (approximately 2 square miles). One commercial vineyard is located within the proposed expansion area. The petition included a letter from the president of the Fair Play Winery Association in support of the proposed expansion. According to the petition, the soils, climate, and topography of the proposed expansion area are similar to those of the established AVA. Unless otherwise noted, all information and data pertaining to the proposed expansion area contained in this document come from the petition and its supporting exhibits.

The Fair Play AVA and the proposed expansion area are located within the El Dorado AVA (27 CFR 9.61), which, in turn, is located within the larger, multicounty Sierra Foothills AVA (27 CFR 9.120). The Fair Play AVA and the proposed expansion area do not overlap any other established or proposed AVAs.

Name Evidence

The petition provides evidence that the proposed expansion area is associated with the established Fair Play AVA. Saluti Cellars, the vineyard and winery owned by the petitioners, is located within the proposed expansion area and has a Somerset, California mailing address. As noted in T.D. ATF–440, Somerset is one of three towns within the established Fair Play AVA, along with Fair Play and Mount Aukum. Also, Saluti Cellars uses the Zip code 95684. As noted in T.D. ATF–440, all three of these communities use the Zip Code 95684. Finally, the proposed expansion area is included in the region served by the Three Forks Grange, which serves the communities within and adjacent to the Fair Play AVA, including the towns of Fair Play, Somerset, and Mount Aukum. TTB notes that the Three Forks Grange is a local unit of the California State Grange, an agricultural fraternity and civic organization that supports rural communities.

Boundary Evidence

The current northeastern boundary of the Fair Play AVA is shaped roughly like a capital letter ''L.'' The current northeastern boundary begins on the USGS Camino quadrangle map at the intersection of the 2,000-foot elevation contour and the shared boundary line of sections 9 and 10. From that point, the current northeastern boundary proceeds due south along sections lines to the Middle Fork of the Cosumnes River on the Aukum quadrangle map; this segment forms the upright portion of the ''L'' shape. The current northeastern boundary then follows the river easterly (upstream) to the range line between R12E and R13E on the Omo Ranch map; this segment of the boundary forms the bottom of the ''L'' shape. The northeastern boundary then follows the R12E/R13E range line due south approximately 1.8 miles to the intersection of the range line and Omo Ranch Road.

The proposed expansion area is located northeast of the established Fair Play AVA boundary, between the 2,000-foot elevation line and the Middle Fork of the Cosumnes River. The proposed boundary would replace the portion of the current northeastern Fair Play AVA boundary located between the intersection of the 2,000-foot elevation line with the shared boundary of sections 9 and 10 (T9N/R12E) and the intersection of the Middle Fork of the Cosumnes River with the R12E/R13E range line. Instead of following the shared section boundary lines south from the 2,000-foot elevation contour to the Middle Fork of the Cosumnes River and then continuing east along the river to the R12E/R13E range line, the proposed boundary would continue east along the 2,000-foot elevation contour to Jackass Canyon Creek, then continue southeasterly along the creek, crossing the southwestern corner of the USGS Sly Park quadrangle map, to Grizzly Flat Road, and would then follow the road east to the R12E/R13E range line. From the intersection of the road with the range line, the proposed boundary would then follow the range line due south to Omo Ranch Road, as the current boundary does.

To the northeast of the proposed expansion area, outside both the proposed expansion area and the established Fair Play AVA, are the El Dorado National Forest and the region known as Grizzly Flats, which both have higher elevations and steeper slopes than the proposed expansion area and the established AVA. Additionally, the El Dorado National Forest was not included in either the established AVA or the proposed expansion area because its status as a National Forest makes the region unavailable for commercial viticulture. To the immediate north of both the proposed expansion area and the established Fair Play AVA is a canyon formed by the North Fork of the Cosumnes River. According to T.D. ATF–440, the steep sides of the canyon are unsuitable for viticulture, and the bottom land along the river is several hundred feet lower than the lowest elevations within either the proposed expansion area or the established AVA.

Distinguishing Features

According to the petition, the proposed expansion area contains the same soils, topography, and climate that distinguish the established Fair Play AVA from the surrounding region. Because the established Fair Play AVA is to the immediate west and south of the proposed expansion area, the distinguishing features of the proposed expansion area will be contrasted only with the regions to the north and east.

Soils

The soils of the proposed expansion area are primarily of the Holland, Musick, and Shaver series. According to a United States Department of Agriculture (USDA) custom soil resource report included with the petition, these three series cover 70% of the proposed expansion area. The soils are derived from granite and consist of sandy loams and coarse sandy loams with average rooting depths between 40 and 60 inches, allowing roots to penetrate far into the soil to absorb nutrients and water. Soils of these three series are also moderately-drained to well-drained, which discourages mildew and rot.

T.D. ATF–440 describes the soils of the established Fair Play AVA as being of the Holland, Musick, and Shaver series, as well. T.D. ATF–440 states that the soils to the north and east of the Fair Play AVA are primarily of the Chawanakee and Chaix series, which are shallow, poorly drained, non-granitic soils of volcanic origin. T.D. ATF–440 also states that the Fair Play AVA boundaries were specifically drawn to exclude shallow, poorly drained, non-granitic soils, including volcanic soils. However, more recent evidence in the form of the USDA custom soil resource report provided in the petition shows that the Holland, Musick, and Shaver soils of the Fair Play AVA extend farther to the northeast than previously thought, including into the proposed expansion area. The soil report also confirms that soils of the Chawanakee and Chaix series are present north and east of both the proposed expansion area and the Fair Play AVA, and that less than 1 percent of the soils of the proposed expansion area are of these two series.

Topography

The proposed expansion area consists of steep hillsides and ridge tops with elevations between 2,000 and 3,000 feet, according to the USGS maps included in the petition. The petition states that the steep elevations minimize the risk of frost in the vineyards of the proposed expansion area because cold air drains off the slopes and does not settle in the vineyards.

The topography of the established Fair Play AVA is similar to that of the proposed expansion area. T.D. ATF–440 describes the established AVA as being composed of rolling hillsides and ridge tops, with elevations between 2,000 and 3,000 feet. By contrast, the region to the east of both the established AVA and the proposed expansion area is higher and steeper, with elevations of over 3,000 feet and slopes that are too steep for commercial viticulture. The region to the north of both the established AVA and the proposed expansion area also has steep slopes that are less suitable for commercial viticulture.

Climate

According to the USDA Soil Survey for El Dorado County (the ''Soil Survey''), cited in both the current expansion petition and T.D. ATF–440, the climate within the Fair Play region of the Sierra Foothills changes with elevation. Rainfall, for example, generally increases along with the elevation. The length of the growing season in the region, however, decreases as elevation increases. T.D. ATF–440 notes that the Soil Survey estimates that the elevations within the Fair Play AVA generally receive between 35 and 40 inches of rain annually and have a growing season of between 230 and 250 days. The current petition states that because the proposed expansion area has elevations similar to those of the established AVA, one could reasonably assume the proposed expansion area also receives between 35 and 40 inches of rain per year and has a growing season of between 230 and 250 days, based on the estimates included for those elevations in the Soil Survey. The rainfall amounts are enough to provide adequate water for vines, but not so much as to promote mildew or rot. The length of the growing season affects the ripening patterns of grapes and influences the varieties grown.

By contrast, the region to the east of both the proposed expansion area and the Fair Play AVA has higher elevations. The petition states that based on the USDA Soil Survey description of rainfall and growing season estimates for the county, the region to the east of the proposed expansion area and the Fair Play AVA would be expected to have higher rainfall amounts and a shorter growing season than both the Fair Play AVA and the proposed expansion area.

TTB notes that it generally prefers for AVA petitions to contain actual climate data gathered from weather stations located within the proposed AVA or proposed expansion area and the surrounding regions, rather than estimates of climate data. However, the USDA Soil Survey for El Dorado County is an official U.S. Government publication and, therefore, is considered to be a reliable source for general climate information. Additionally, the climate estimates in the Soil Survey are based on elevation, and the elevations of both the established AVA and the proposed expansion area can be readily verified using the USGS maps provided in the petition. Finally, the original petition to establish the Fair Play AVA used the USDA Soil Survey for El Dorado County as the basis for its discussion of the climate of the region. Therefore, in this instance, TTB is accepting the climate estimates contained in the expansion petition as evidence that the climate of the proposed expansion area is similar to that of the established AVA, instead of requiring actual climate data gathered from a weather station within the proposed expansion area.

Comparison of the Proposed Fair Play AVA Expansion Area to the Existing El Dorado and Sierra Foothills AVAs

El Dorado AVA

The El Dorado AVA was established by T.D. ATF–152, which was published in the **Federal Register** on October 13, 1983 (48 FR 46520). The El Dorado AVA is located on the western slopes of the Sierra Nevada Mountains and has a generally mountainous topography with elevations between approximately 1,200 and 3,500 feet. Rainfall amounts are between 33 and 45 inches annually. The soils vary in depth and are generally formed from volcanic material.

The proposed Fair Play AVA expansion area has a climate and topography similar to the El Dorado AVA, with rolling hills and mountains and annual rainfall amounts and elevations that fall within the ranges of the larger AVA. However, the proposed expansion area bears a greater similarity to the established Fair Play AVA than to the larger El Dorado AVA. Because of their smaller sizes, both the proposed expansion area and the Fair Play AVA have a smaller range of elevations than the larger AVA. The smaller range of elevations also results in a smaller range of annual rainfall amounts within the proposed expansion area and the Fair Play AVA than within the larger AVA.

The soils of the proposed expansion area also bear a greater similarity to the soils of the Fair Play AVA than to those of the El Dorado AVA. As stated, the soils of the Fair Play AVA are of the Holland, Shaver, and Musick series and are described as deep, well-drained soils comprised mainly of granite. T.D. ATF–440 notes that the boundaries of the Fair Play AVA were specifically drawn to exclude shallow, poorly drained, non-granitic soils. However, the recent USDA soil survey report provided in the petition shows that the Holland, Shaver, and Musick series soils extend farther to the northeast than previously believed and are found also within the proposed expansion area. By contrast, the soils of the El Dorado AVA are described in T.D. ATF–152 as being comprised of river gravel and non-granitic volcanic debris and as having depths that vary from shallow to deep. The soil survey report confirms that volcanic soils, primarily of the Chawanakee and Chaix series, are found in greater concentrations in the region of the El Dorado AVA immediately adjacent to the boundaries of both the established Fair Play AVA and the proposed expansion area.

Sierra Foothills AVA

The Sierra Foothills AVA was established by T.D. ATF–261, which

was published in the **Federal Register** on November 18, 1987 (52 FR 44105). The Sierra Foothills AVA is approximately 160 miles long and covers portions of 7 California counties in the foothills of the Sierra Nevada Mountains. The topography of the region ranges from gently rolling hills to progressively steeper slopes and canyons. T.D. ATF–261 describes the Sierra Foothills AVA as having lower temperatures and greater rainfall amounts than the lower elevations of the Central Valley to the west, and as having higher temperatures and lower rainfall amounts than the higher, more mountainous uplands of the Sierra Nevada Mountains to the east. Although specific soil and climate data were not included in T.D. ATF–261, the notice of proposed rulemaking for the Sierra Foothills AVA (Notice No. 632, 52 FR 19531, May 26, 1987) states that vineyards within the AVA are planted at elevations between 500 and 3,000 feet. Notice No. 632 also states that the growing season ranges from 100 to 300 days, depending on the elevation.

Both the proposed expansion area and the Fair Play AVA share some similar characteristics of the larger Sierra Foothills AVA. The proposed expansion area and the Fair Play AVA both contain rolling hills that become progressively steeper. However, the range of elevations within the proposed expansion area is not as great as the range within the Sierra Foothills AVA and is more similar to the range of elevations within the Fair Play AVA.

The climate within the proposed expansion area also shares some characteristics with the larger Sierra Foothills AVA. As previously discussed, rainfall amounts increase with elevation and temperatures decrease with elevation within the Sierra Nevada Mountains and foothills. Therefore, because the proposed expansion area is located within the foothills of the Sierra Nevada, one could expect the proposed expansion area to have more rain than the Central Valley and less rainfall than the higher uplands of the Sierra Nevada Mountains. However, because the proposed expansion area covers a smaller area with a smaller range of elevations, one would expect its range of annual rainfall amounts to be more similar to the Fair Play AVA, which shares a similar range of elevations with the proposed expansion area.

Finally, the proposed expansion area has a growing season of between 230 and 250 days, which is within the range of the Sierra Foothills AVA. However, the length of the growing season within the Sierra Foothills AVA can vary by as much as 200 days, depending on elevation. By contrast, the average length of the growing season within both the Fair Play AVA and the proposed expansion area varies only by about 20 days, due to the smaller range of elevations within both the Fair Play AVA and the proposed expansion area.

Technical Corrections to Boundary Description

TTB has noted an error in the current boundary instructions for the Fair Play AVA, specifically, in paragraph (c) of § 9.168. Consequently, in paragraphs (c)(12) and (13), TTB is clarifying that, from the South Fork of the Cosumnes River, the Fair Play AVA's western boundary proceeds north along the western boundary of section 14, T8N/R11E, as currently described, but then continues north along the western boundary lines of sections 11 and 2 in T8N/R11E, and then along the western boundary lines of sections 35 and 26 in T9N/R11E in order to return to the boundary's beginning point at the section line's intersection with the Middle Fork of the Cosumnes River. This clarification would not change the location of the Fair Play AVA's existing western boundary.

TTB also has noted the need to correct two typographical errors in the AVA's current boundary description. In paragraph (c)(4) of § 9.168, the reference to the 2,200-foot contour line incorrectly uses a double quote mark as an abbreviation for ''feet,'' and the paragraph incorrectly ends with a period. To correct these typographical errors and to match the style used elsewhere in § 9.168(c), TTB is changing the elevation reference to read ''the 2200-foot contour line'' and ending the paragraph with a semi-colon. These corrections are merely stylistic and would not change the location of the Fair Play AVA's existing boundary, as described in paragraph (c)(4).

TTB Determination

TTB concludes that the petition to expand the boundaries of the established Fair Play AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative boundary description of the petitioned-for expansion area in the proposed regulatory text published at the end of this proposed rule.

Maps

To document the existing and proposed boundaries of the Fair Play AVA, the petitioner provided copies of the three currently-required USGS maps (the Aukum, Camino, and Omo Ranch quadrangle maps) and a copy of the additional Sly Park quadrangle map. The four maps are listed below in the proposed regulatory text.

Impact on Current Wine Labels

For a wine to be labeled with a viticultural area name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

The approval of the proposed expansion of the Fair Play AVA would not affect any other existing viticultural area, and any bottlers using ''El Dorado'' or ''Sierra Foothills'' as an appellation of origin or in a brand name for wines made from grapes grown within the El Dorado or Sierra Foothills viticultural areas would not be affected if the proposed expansion is approved. The expansion of the Fair Play AVA would allow vintners to use ''Fair Play,'' ''El Dorado,'' and ''Sierra Foothills'' as appellations of origin for wines made primarily from grapes grown within the proposed expansion area if the wines meet the eligibility requirements for the appellation.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should expand the Fair Play AVA as proposed. TTB is specifically interested in receiving comments on the similarity of the proposed expansion area to the established Fair Play AVA. In addition, TTB is interested in comments on whether the name evidence provided in the petition demonstrates that the proposed expansion area is known by the ''Fair Play'' name. Finally, given the location of the proposed expansion area and the Fair Play AVA within the existing El Dorado and Sierra Foothills viticultural areas, TTB is interested in

comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed expansion area sufficiently differentiates it from the existing El Dorado and Sierra Foothills viticultural areas. Please provide specific information in support of your comments.

Submitting Comments

You may submit comments on this notice of proposed rulemaking by using one of the following three methods:

• *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this notice within Docket No. TTB–2014–0005 on ''Regulations.gov,'' the Federal e-rulemaking portal, at *http://www.regulations.gov.* A direct link to that docket is available under Notice No. 143 on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml.* Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the ''Help'' tab.

• *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

• *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 143 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the ''Organization'' blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2014–0005 on the Federal e-rulemaking portal, Regulations.gov, at *http://www.regulations.gov.* A direct link to that docket is available on the TTB Web site at *http://www.ttb.gov/wine/wine_rulemaking.shtml.* under Notice No. 143. You may also reach the relevant docket through the Regulations.gov search page at *http://www.regulations.gov.* For information on how to use Regulations.gov, click on the site's ''Help'' tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice of proposed rulemaking, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- × 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB's information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this notice of proposed rulemaking.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Section 9.168 is amended by revising paragraphs (b), (c)(4) through (7), (c)(12), and (c)(13) to read as follows:

§ 9.168 Fair Play.

* * * * *

(b) *Approved maps.* The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Fair Play viticultural area are titled:

(1) Aukum, Calif., 1952 (photorevised 1973);

(2) Camino, CA, 1952 (photorevised 1973);

(3) Sly Park, CA, 1952 (photorevised 1973); and

(4) Omo Ranch, Calif., 1952 (photorevised 1973).

(c) * * *

(4) The boundary continues east along Grizzly Flat Road to its intersection with the 2200-foot contour line (''Camino Quadrangle'');

(5) The boundary continues northeasterly and then easterly along the 2200-foot contour line until the contour line intersects with Jackass Canyon Creek near the eastern boundary of Section 10, T. 9 N., R. 12. E., on the ''Camino Quadrangle'' map;

(6) The boundary then proceeds southeast along Jackass Canyon Creek,

crossing over the southwestern corner of the ''Sly Park'' Quadrangle map and onto the ''Omo Ranch'' Quadrangle map, to the headwaters of the creek, then proceeds in a straight line southeast to Grizzly Flat Road in Section 24, T. 9 N., R. 12 E.;

(7) The boundary continues east along Grizzly Flat Road until the road intersects with the range line between R. 12 E. and R. 13 E. (''Omo Ranch Quadrangle'');

* * * * *

(12) The boundary continues west along the South Fork of the Cosumnes River to its intersection with the western boundary of Section 14, T. 8 N., R 11 E. (''Aukum Quadrangle'');

(13) The boundary then proceeds north along the western boundary lines of Sections 14, 11, and 2, T. 8 N., R 11 E., and then the western boundary lines of Sections 35 and 26, T. 9 N., R 11 E., to return to the beginning point (''Aukum Quadrangle'').

Dated: June 5, 2014.

John J. Manfreda,

Administrator.

[FR Doc. 2014–14055 Filed 6–16–14; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0298; FRL–9912–20–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Portable Fuel Container Amendment to Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision involves removing the Commonwealth's portable fuel container (PFC) regulation which controlled evaporative emissions from new and in-use portable fuel containers from Pennsylvania's SIP because the Commonwealth's provisions are superseded by new, more stringent Federal PFC regulations. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation is included in the notice of direct final rulemaking and the Technical Support Document (TSD) prepared in support of this rulemaking action. The TSD is available on *www.regulations.gov* under Docket ID No. EPA–R03–OAR–2014–0298. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 17, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0298 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: Fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0298, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0298. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

For further information, please see the information provided in the direct final action, entitled Portable Fuel Container Amendment to Pennsylvania State Implementation Plan, located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: June 29, 2014.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2014–14026 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0245; FRL–9912–23–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to Delaware's Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of amending Delaware's ambient air quality standards. These amendments will bring the regulatory standards of sulfur dioxide, ozone, nitrogen dioxide, lead, and particulate matter up to date with current Federal requirements. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 17, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0245 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2014–0245, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0245. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the amendments to the Delaware ambient air quality standards, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: June 2, 2014.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2014–14028 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–SFUND–2014–0474; FRL–9911–81–OSWER]

Amendment to Standards and Practices for All Appropriate Inquiries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the standards and practices for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to remove the reference to ASTM International's E1527–05 standard practice. This 2005 standard practice recently was replaced with updated standard E1527–13 by ASTM International, a widely recognized standards development organization. Specifically, EPA is proposing to amend the ''All Appropriate Inquiries Rule'' to remove the reference to ASTM International's E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.''

DATES: Written comments must be received by July 17, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2014–0474 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: superfund.docket@epa.gov.*
- *Mail:* Superfund Docket, Environmental Protection Agency,

Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

• *Hand Delivery:* EPA Headquarters West Building, Room 3334, located at 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The EPA Headquarters Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2014–0474. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Certain types of information claimed as CBI, and other information whose disclosure is restricted by statute, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material, such as ASTM International's E1527–13 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' will not be placed in EPA's electronic public docket but will be publicly available only in printed form in the official public docket. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the **HQ EPA Docket Center**, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room at this docket facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–9744.

FOR FURTHER INFORMATION CONTACT: For general information, contact the CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rule, contact Patricia Overmeyer, Office of Brownfields and Land Revitalization (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, 202–566–2774, *overmeyer.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

The EPA is proposing to remove the reference to the 2005 ASTM standard in the All Appropriate Inquiries Rule at 40 CFR part 312. In November 2013, ASTM International replaced its 2005 standard (ASTM E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'') with an updated standard, ASTM E1527–13 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' The updated 2013 standard is a currently recognized industry consensus-based standard to conduct all appropriate inquiries under CERCLA. In December 2013, EPA published a final rule indicating that parties who purchase potentially contaminated properties may use the ASTM E1527–13 standard practice when conducting all appropriate inquiries pursuant to CERCLA. Today's proposed rule does not propose changes to the standards and practices included in the All Appropriate Inquiries Rule. Any party who wants to conduct all appropriate inquiries under CERCLA may follow the standards and procedures set forth in the All Appropriate Inquiries Rule at 40 CFR part 312 (70 FR 66070) or use the new ASTM E1527–13 standard.

Parties potentially affected by this action are those who perform all appropriate inquiries, including public and private parties who intend to claim protection from CERCLA liability as bona fide prospective purchasers, contiguous property owners, or innocent landowners. In addition, any party conducting a site characterization or assessment on a property with a brownfields grant awarded under CERCLA section 104(k)(2)(B)(ii) may be affected by today's action. This includes state, local and tribal governments that receive brownfields site assessment grants. A summary of the potentially affected industry sectors (by North American Industry Classification System (NAICS) codes) is displayed in the table below.

Industry category	NAICS Code
Real Estate	531
Insurance	52412
Banking/Real Estate Credit	52292
Environmental Consulting Services	54162
State, Local and Tribal Government	926110, 925120
Federal Government	925120, 921190, 924120

The list of potentially affected parties in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other parties not listed in the table and EPA welcomes comments on this issue.

Content of Today's Proposed Rule

I. Regulated Entities
II. Statutory Authority
III. Background
IV. Overview of Today's Action
V. Effective Date of Final Action
VI. Statutory and Executive Order Reviews

II. Statutory Authority

This proposed rule, which proposes to amend the All Appropriate Inquiries Rule at 40 CFR part 312 setting Federal standards for the conduct of ''all appropriate inquiries,'' is authorized under section 101(35)(B) of CERCLA (42 U.S.C. 9601), as amended by the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

III. Background

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization

Act, Public Law 107–118 (''the Brownfields Amendments''), which amended CERCLA. In general, the Brownfields Amendments provide funds to assess and clean up brownfields sites; clarify CERCLA liability provisions related to certain purchasers of contaminated properties; and provide funding to enhance state and tribal cleanup programs. Subtitle B of the Brownfields Amendments revises some of the provisions of CERCLA section 101(35) and limits CERCLA liability under Section 107 (42 U.S.C. 9607) for bona fide prospective purchasers and contiguous property owners, in addition to clarifying the requirements necessary to establish the innocent landowner defense under CERCLA. The Brownfields Amendments provide that parties purchasing potentially contaminated property must undertake ''all appropriate inquiries'' into prior ownership and use of the property at issue prior to purchase in order to qualify for protection from CERCLA liability.

The Brownfields Amendments also require EPA to develop regulations establishing standards and practices for conducting all appropriate inquiries. On November 1, 2005, EPA promulgated regulations that set standards and practices for all appropriate inquiries (70 FR 66070). In that rule, EPA referenced the ASTM E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' and authorized its use to comply with the rule. On December 23, 2008, EPA amended the rule to recognize another ASTM International standard as compliant with the rule, ASTM E2247–08 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' (73 FR 78716).

In November 2013, ASTM International published ASTM E1527–13, ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' In early 2013, at ASTM International's request, EPA reviewed this standard and determined that a party's use of the standard would be compliant with the All Appropriate Inquiries Rule.

On December 30, 2013, EPA published a final rule which provided that persons conducting all appropriate inquiries may use the procedures included in ASTM E1527–13 to comply with the All Appropriate Inquiries Rule (78 FR 79319). In the final rule, EPA indicated that it intended to publish a proposed rule to amend the All Appropriate Inquiries Rule to remove the reference to ASTM E1527–05 Phase I Environmental Site Assessment Standard.

With today's action, EPA is proposing to amend the All Appropriate Inquiries Rule to remove the reference to the historical 2005 ASTM standard (ASTM E1527–05). EPA is retaining the reference to the recently revised ASTM standard, E1527–13.

IV. Overview of Today's Action

EPA is proposing to amend the All Appropriate Inquiries Rule at 40 CFR 312 to remove the reference to ASTM International's E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' In November 2013, ASTM International designated this standard an ''historical standard'' and replaced it with the updated ASTM E1527–13 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.''

Today's proposed action would not prevent parties from continuing to use other standards, methods, or customary business practices for conducting all appropriate inquiries, so long as they comply with the standards and procedures set forth in the All Appropriate Inquiries Rule. Instead, today's proposed action removes the reference to a standard that ASTM International no longer recognizes as current and that it no longer represents as reflecting its current consensus-based standard.

EPA is proposing this action because the Agency wants to reduce any confusion associated with the regulatory reference to a historical standard that is no longer recognized by its own promulgating organization as meeting its standards for good customary business practice. In addition, we believe that today's proposed action would promote the use of the standard currently recognized by ASTM International as the consensus-based, good customary business standard.

For properties acquired between November 1, 2005 and the effective date of this proposed action, should it be finalized, the 2005 ASTM standard (ASTM E1527–05) complies with the All Appropriate Inquiries Rule as it was in effect at the time the property was acquired.

EPA's proposed action includes no proposed changes to the All Appropriate Inquiries Rule other than to remove a reference to the historical ASTM E1527–05 standard. It does not impact the reference to the recently revised ASTM standard, E1527–13 in the All Appropriate Inquiries Rule.

EPA seeks comments on today's proposed action. EPA is not seeking comments on the standards and practices included in the All Appropriate Inquiries Rule published at 40 CFR 312, nor on the references to any other standards included in 40 CFR 312.11.

V. Effective Date of Final Action

Today's action is a proposed rule. The Agency is seeking comment on the proposal to remove the current reference to the ASTM E1527–05 Phase I Environmental Site Assessment Standard in the All Appropriate Inquiries Rule. After considering all public comments received in response to the proposed action, EPA may publish a final rule that will result in the removal of the current reference to the ASTM E1527–05 standard. The EPA anticipates that some parties, at the time that EPA publishes a final rule to remove the reference to the ASTM E1527–05 standard, may still be using the historical standard to comply with the provisions of all appropriate inquiries. Therefore, the Agency anticipates providing for a delayed effective date of the final action to provide parties with an adequate opportunity to complete AAI investigations that may be ongoing and to become familiar with the updated industry standard (ASTM E1527–13). EPA proposes an effective date for removing the reference to ASTM E1527–05 in the AAI rule as one year after the publication of the final rule. EPA is soliciting comments on the proposal to delay the effective date of a final rule removing the reference to the ASTM E1527–05 standard for one year following publication of the final rule.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This proposed action is not a ''significant regulatory action'' under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This proposed action will not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). The current regulation does not have an information collection burden and

today's action's only change to the regulation is to delete the reference to a historical standard that recently was replaced with an updated version of the standard. A final rule referencing the updated version of the standard was published by EPA on December 30, 2013 (78 FR 79319).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small organizations, and small governmental jurisdictions.

Today's proposed action does not change the current regulatory status quo and does not impose any regulatory requirements. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This proposed action imposes no enforceable duty on any state, local or tribal governments or the private sector. This proposed action merely removes a reference to a historical voluntary consensus standard. The proposed action imposes no new regulatory requirements and will result in no additional burden to any entity. Therefore, this action is not subject to the requirements of sections 202 or 205 of UMRA.

As stated above, this proposed rule also is not subject to the requirements of section 203 of UMRA because it contains no new regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This proposed action does not have federalism implications. Today's proposed action will not substantially change the current regulation; it merely removes a reference to a historical voluntary consensus standard. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. Thus, EO 13132 does not apply to this rule.

In the spirit of EO 13132, and consistent with EPA policy to promote communication between EPA and state and local governments, EPA specifically solicits comment on this proposed action from state and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications, as specified in EO 13175 (65 FR 67249, November 9, 2000). This proposed action merely removes a reference to a historical voluntary consensus standard. Today's proposed action does not change any current regulatory requirements and therefore will not impose any impacts upon tribal entities. Thus, EO 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This proposed action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to EO 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under EO 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. Therefore, the requirements of section 12(d) of the NTTAA (15 U.S.C. 272) apply. The NTTAA was signed into law on March 7, 1996 and, among other things, directs the National Institute of Standards and Technology (NIST) to bring together federal agencies as well as state and local governments to achieve greater reliance on voluntary standards and decreased dependence on in-house standards. It states that use of such standards, whenever practicable and appropriate, is intended to achieve the following goals: (a) Eliminate the cost to the government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation; (b) provide incentives and opportunities to establish standards that serve national needs; (c) encourage long-term growth for U.S. enterprises and promote efficiency and economic competition through harmonization of standards; and (d) further the policy of reliance upon the private sector to supply Government needs for goods and services. The Act requires that federal agencies adopt private sector standards, particularly those developed by standards developing organizations (SDOs), wherever possible in lieu of creating proprietary, non-consensus standards.

Today's proposed rule complies with the NTTAA as it allows persons conducting all appropriate inquiries to use the procedures included in the updated ASTM International standard known as Standard E1527–13 and entitled ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process to comply with the All Appropriate Inquiries Rule.'' The rule also deletes reference to a standard that is no longer recognized as current by the standards developing organization responsible for its development.

The EPA welcomes comments on this aspect of the proposed rulemaking.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, Feb. 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Today's action merely removes a reference to a historical voluntary consensus standard and does not impose any new requirements.

List of Subjects in 40 CFR Part 312

Environmental protection, Administrative practice and procedure, Hazardous substances.

Dated: June 6, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations proposes to amend as follows:

PART 312—INNOCENT LANDOWNERS, STANDARDS FOR CONDUCTING ALL APPROPRIATE INQUIRIES

■ 1. The authority citation for part 312 continues to read as follows:

Authority: Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

Subpart B—Definitions and References

§ 312.11 [Amended]

■ 2. Section 312.11 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

[FR Doc. 2014–14032 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 766

[EPA–HQ–OPPT–2014–0261; FRL–9911–88]

Receipt of Request for Waiver From Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Receipt of request for waiver from testing.

SUMMARY: EPA received from Nation Ford Chemical (NFC) a request for a waiver from testing requirements promulgated by rule under section 4 of the Toxic Substances Control Act to ascertain whether certain specified chemical substances may be contaminated with halogenated dibenzodioxins (HDDs)/dibenzofurans (HDFs). EPA will accept comments on this request and will publish another **Federal Register** document on or before July 21, 2014, announcing its decision on this request.

DATES: Comments must be received on or before July 17, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0261, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Hiroshi Dodahara, National Program Chemicals Division, Office of Pollution Prevention and Toxics (7404T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0507; email address: *dodahara.hiroshi@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the request for waiver. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is announcing receipt of a request for waiver from testing from NFC. EPA will accept comments on this request on or before July 17, 2014 and will publish another **Federal Register** document announcing its decisions on this request. See 40 CFR 766.32(c).

B. What is the agency's authority for taking this action?

Under 40 CFR part 766, EPA requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs. Under 40 CFR 766.32(a)(2)(ii), a waiver may be granted if, in the judgment of EPA, the cost of testing would drive the chemical substance off the market, or prevent resumption of manufacture or import of the chemical substance, if it is not currently manufactured, and the chemical substance will be produced so that no unreasonable risk will occur due to its manufacture, import, processing, distribution, use, or disposal. The manufacturer must submit to EPA all data supporting the determination.

Under 40 CFR 766.32(b), a request for a waiver must be made 60 days before resumption of manufacture or importation of a chemical substance not being manufactured, imported, or processed as of June 5, 1987.

On May 21, 2014, EPA received a completed waiver request from NFC under 40 CFR 766.32(a)(2)(ii) (Ref. 1). NFC originally sent a waiver request in a letter dated March 18, 2014 (Ref. 2), which was amended for a technical correction in a letter resubmitted on April 2, 2014 (Ref. 3). EPA informed NFC by letter (Ref. 4) that it would need to submit certain additional information before the submission was complete and EPA could begin its review of the request. The resubmitted request indicates that NFC intends to import 2,3,5,6-tetrachloro-2,5-cyclohexadienel,4-dione (Chloranil) (CASRN 118–75–2), a chemical substance subject to testing under 40 CFR part 766, to use chloranil as a substitute for an ingredient in the manufacture of a pigment (Ref. 1).

III. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. National Ford Chemical. Letter from Phillip McCarter to Tanya Hodge Mottley, May 16, 2014 (Received by EPA on May 21, 2014).
2. National Ford Chemical. Letter from Phillip McCarter to Wendy Cleland-Hamnett, March 18, 2014. (Received by EPA on March 27, 2014).
3. National Ford Chemical. Technical Correction to Letter from Phillip McCarter to Wendy Cleland-Hamnett, March 18, 2014. (Received by EPA on April 2, 2014).
4. EPA. Letter to Phillip McCarter from Tanya Hodge Mottley, May 5, 2014.

List of Subjects in 40 CFR Part 766

Environmental protection, Chloranil, Dibenzofurans, Dioxins, Hazardous substances.

Dated: June 9, 2014.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–14122 Filed 6–16–14; 8:45 am]

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Notices

Federal Register

Vol. 79, No. 116

Tuesday, June 17, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 11, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Summer Food Service Program (SFSP) Characteristics Study.

OMB Control Number: 0584–NEW.

Summary of Collection: School-age children are more susceptible to food insecurity during the summer when they do not have access to meals provided at school. The Summer Food Service Program (SFSP) was designed to ensure that children who benefits from the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) do not experience a nutrition gap during the summer. The SFSP supports children's nutrition through reimbursements to participating institutions for meals meeting USDA Dietary Guidelines for Americans, 2015. The legal authority to collect this information is under the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, Sec. 305).

Need and Use of the Information: FNS will collect information using web-based surveys and some will be completed over the phone. The collected information will be used to identify barriers and facilitators to program participation by sponsors, sites, and eligible children. It will be used to determine future changes in SFSP policy to improve program participation, operations, and outcomes needed to address circumstances that may have changed since the last evaluation of the program in 2010.

Description of Respondents: Individuals or households; State, Local or Tribal Government.

Number of Respondents: 1,104.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 2,636.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E & T) Program Activity Report.

OMB Control Number: 0584–0339.

Summary of Collection: Section 6(d) of the Food and Nutrition Act of 2008 and 7 CFR 273.7 require each SNAP household member who is not exempt shall be registered for employment by the State agency at the time of application and once every twelve months thereafter, as a condition of eligibility. This requirement pertains to non-exempt SNAP household member age 16 to 60. Each State agency must screen each work registrant to determine whether to refer the individual to its E&T Program. States' E&T Programs are federally funded through an annual E&T grant. Both the Food and Nutrition Act and regulations require States to file quarterly reports about their E&T Programs so that the Food and Nutrition Service (FNS) can monitor their performance.

Need and Use of the Information: FNS will collect quarterly reports about their E&T programs so that the Department can monitor State performance to ensure that the program is being efficiently and economically operated. Without the information FNS would be unable to make adjustments or allocate exemptions in accordance with the statute.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; Annually.

Total Burden Hours: 21,889.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–14120 Filed 6–16–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0040]

Notice of Request for Approval of an Information Collection; U.S. Origin Health Certificate Template

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection for a U.S. origin health certificate template.

DATES: We will consider all comments that we receive on or before August 18, 2014.

ADDRESSES: You may submit comments by either of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0040.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0040* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the U.S. origin health certificate template, contact Dr. Courtney Bronner Williams, Senior Staff Veterinarian, National Import Export Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 851–3357. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: U.S. Origin Health Certificate Template.

OMB Control Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture has the authority to detect, control, or eradicate pests or diseases of livestock and poultry. APHIS may also prohibit or restrict the importation or export of any animal to prevent the spread of livestock or poultry pests or diseases.

The export of agricultural commodities, including animals and animal products, is a major business in the United States and contributes to a favorable balance of trade. Within APHIS, Veterinary Services (VS) maintains information regarding the import health requirements of other countries for animals and animal products exported from the United States, as most countries require a certification that our animals are free from specific diseases and show no clinical evidence of disease. Knowledge of these import health requirements allows exporters to determine whether their animals meet the health requirements of the destination countries and promotes disease prevention, which is the most effective method for maintaining a healthy animal population and enhancing our country's ability to compete in the world market of animal and animal product trade.

Exporters currently use several forms approved by the Office of Management and Budget (OMB) to certify that their animals meet the certification requirements of other countries. However, to expedite the process, VS has developed an adaptable electronic export health certificate template for use by exporters and trading partners for the export certification of animals. This new template has the potential to replace other paper-based forms associated with the export certification of animals.

We are asking OMB to approve our use of this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Live animal owners and exporters, accredited veterinarians, and animal health officials of the countries of destination.

Estimated annual number of respondents: 1,849.

Estimated annual number of responses per respondent: 24.

Estimated annual number of responses: 44,376.

Estimated total annual burden on respondents: 22,188 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of June 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–14117 Filed 6–16–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0046]

Notice of Request for Extension of Approval of an Information Collection; Importation of Poultry Meat and Other Poultry Products From Sinaloa and Sonora, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the regulations for the importation of poultry meat and other poultry products from Sinaloa and Sonora, Mexico.

DATES: We will consider all comments that we receive on or before August 18, 2014.

ADDRESSES: You may submit comments by either of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0046.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0046, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0046* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of poultry meat and other poultry products from Sinaloa and Sonora, Mexico, contact Dr. Magde Elshafie, Senior Staff Veterinary Medical Officer, National Import Export Services, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Poultry Meat and Other Poultry Products From Sinaloa and Sonora, Mexico.

OMB Control Number: 0579–0144.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is authorized, among other things, to prohibit the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of animal diseases and pests. To fulfill this mission, APHIS regulates the importation of animals and animal products into the United States. The regulations are contained in title 9, chapter I, subchapter D, parts 91 through 99, of the Code of Federal Regulations.

The regulations in part 94, among other things, restrict the importation of poultry meat and other poultry products from Mexico and other regions of the world where Newcastle disease has been determined to exist. The regulations allow the importation of poultry meat and poultry products from the Mexican States of Sinaloa and Sonora under conditions that protect against the introduction of Newcastle disease into the United States.

To ensure that these items are safe for importation, we require that certain data appear on the foreign meat inspection certificate that accompanies the poultry meat or other poultry products from Sinaloa and Sonora. We also require that serially numbered seals be applied to containers carrying the poultry meat or other poultry products.

Since the last approval of these collection activities, shipments of poultry meat and other poultry products from Sinaloa and Sonora to the United States have increased. As a result of the increase in shipments, the estimated annual number of respondents has increased from 280 to 386, and the estimated annual total burden has accordingly increased from 280 hours to 386 hours.

We are asking OMB to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Federal animal health authorities in Mexico and exporters of poultry meat and other poultry products from Mexico to the United States.

Estimated annual number of respondents: 386.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 386.

Estimated total annual burden on respondents: 386 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of June 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–14098 Filed 6–16–14; 8:45 am]

BILLING CODE 3410–34–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Thursday, June 19, 2014, 5:30 p.m. EDT.

PLACE: Office of Cuba Broadcasting, 4201 NW 77th Ave., Miami, FL 33166

STATUS: Closed meeting of the Broadcasting Board of Governors.

MATTERS TO BE CONSIDERED: The members of the Broadcasting Board of Governors (BBG) will meet in a closed session to consider the appointment of personnel in the Office of the Chief Financial Officer. This meeting will be closed to public observation pursuant to 5 U.S.C. 552b(c)(6) in order to protect the privacy interests of personnel involved in the actions under consideration. In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(6), will be made available to the public. The publicly-releasable transcript will be available for download at *www.bbg.gov* within 21 days of the date of the meeting.

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2014–14065 Filed 6–13–14; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 140602474–4474–01]

Notice of an Opportunity To Apply for Membership on the National Advisory Council on Innovation and Entrepreneurship

AGENCY: Office of the Secretary, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the National Advisory Council on Innovation and Entrepreneurship (Council). The purpose of the Council is to advise the Secretary of Commerce on matters

related to accelerating innovation and entrepreneurship.

DATES: Applications must be received by the Office of Innovation and Entrepreneurship by the close of business on July 14, 2014 to be considered for membership in the initial formation of this Council. Applications received by July 14, 2014, will also be considered to fill vacancies which may occur after Council formation for a period of one year.

ADDRESSES: Please submit applications electronically to *NACIE@DOC.gov*, or by mail to the Office of Innovation and Entrepreneurship, Attn: Julie Lenzer Kirk, 1401 Constitution Avenue NW., 7th Floor, Washington, DC 20230. Electronic submissions are preferred.

FOR FURTHER INFORMATION CONTACT: Julie Lenzer Kirk, The Office of Innovation and Entrepreneurship, 1401 Constitution Avenue NW., 7th Floor, Washington, DC 20230; telephone at (202) 482–5338; email at *NACIE@DOC.gov*.

SUPPLEMENTARY INFORMATION: The Office of Innovation and Entrepreneurship is accepting applications for membership on the National Advisory Council on Innovation and Entrepreneurship (Council) for a 2-year term beginning the date of appointment. Members will be selected, in accordance with Department of Commerce guidelines, based on their ability to advise the Secretary of Commerce on matters relating to accelerating innovation and support for and expansion of entrepreneurship. This includes, but is not limited to, areas such as:

- Development of policy recommendations to support entrepreneurship and innovation across a range of business sectors;
- Insight into innovative opportunities to increase the global competitiveness of both the workforce and the economy;
- Exploration of opportunities to promote the role of employers in developing successful workforce training partnerships across multiple stakeholders;
- Encouraging creative use of technology to facilitate employee recruiting, training, career development, and business startups;
- Identify and promote best practices that accelerate the commercialization of research developments and intellectual property.

The Council will identify and recommend solutions to issues critical to driving the innovation economy, including enabling entrepreneurs and firms to successfully access and develop a skilled, globally competitive workforce. The Council will also serve as a vehicle for ongoing dialogue with the entrepreneurship and workforce development communities, including working with business and trade associations. The duties of the Council are solely advisory, and it shall report to the Secretary of Commerce through the Economic Development Administration and the Office of the Secretary.

Members of the Council shall be selected in a manner that ensures that the Council is balanced in terms of perspectives and expertise with regard to innovation, entrepreneurship, and skills training that leads to a globally competitive workforce. To that end, the Secretary seeks diversity in size of company or organization represented and seeks to appoint members who represent diverse geographic locations and innovation and entrepreneurial experience from industry, government, academia and non-governmental organizations.

Additional factors which may be considered in the selection of Council members include candidate's proven experience in designing, creating, and/or improving innovation systems, commercialization of research and development, entrepreneurship, and job-driven skills training that leads to a globally competitive workforce. Membership affiliation may include, but is not limited to, successful executive-level business leaders; entrepreneurs; innovators; post-secondary education leaders; directors of workforce and training organizations; and other experts drawn from industry, government, academia, philanthropic foundations with a demonstrated track record of research and/or support of innovation and entrepreneurship, and non-governmental organizations. Nominees will be evaluated consistent with factors specified in this notice and their ability to carry out the goals of the Council.

Self-nominations will be accepted.

Appointments will be made without regard to political affiliation.

Membership. Members shall serve at the discretion of the Secretary of Commerce. Because members will be appointed as experts, members will be considered special government employees. Members participating in Council meetings and events will be responsible for their travel, living, and other personal expenses. Meetings will be held regularly and not less than twice annually, usually in Washington, DC. Members are required to attend a majority of the Council's meetings. The first Council meeting for the new charter term has not yet been established, but is targeted for November 2014.

Eligibility. Eligibility for membership is limited to U.S. citizens who are not full-time employees of a government or foreign entity, are not registered with the Department of Justice under the Foreign Agents Registration Act, and are not a federally-registered lobbyist.

Application Procedure. For consideration, a nominee should submit: (1) A resume; (2) personal statement of interest including an outline of your abilities to advise the Secretary of Commerce on matters described above; (3) an affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended; and (4) an affirmative statement that the applicant is not a federally-registered lobbyist. It is preferred that applications be submitted electronically to *NACIE@DOC.gov*. They can also be sent to the Office of Innovation and Entrepreneurship, Attn: Julie Lenzer Kirk at 1401 Constitution Avenue NW., 7th Floor, Washington, DC 20230.

Appointments of members of the Council will be made by the Secretary of Commerce.

Dated: June 12, 2014.

Roy K.J. Williams,

Assistant Secretary for Economic Development, Economic Development Administration.

[FR Doc. 2014–14153 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Request for Nominations of Members To Serve on the National Advisory Committee on Racial, Ethnic, and Other Populations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of request for nominations.

SUMMARY: The Bureau of the Census (Census Bureau) is requesting nominations of individuals and organizations to the National Advisory Committee on Racial, Ethnic, and Other Populations. The Census Bureau will consider nominations received in response to this notice, as well as from other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by July 17, 2014.

ADDRESSES: Please submit nominations to Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233. Nominations also may be submitted via fax at 301–763–8609, or by email to <*jeri.green@census.gov*>.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–2070.

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2). The following provides information about the committee, membership, and the nomination process.

Objectives and Duties

1. The Advisory Committee provides insight, perspectives, expertise and advice to the Director of the Census Bureau on the full spectrum of Census surveys and programs. The Committee assists the Census Bureau in developing appropriate research/methodological, operational, and communication strategies to reduce program/survey costs, improve coverage and operational efficiency, improve the quality of data collected, protect the public's and business units' privacy, enhance public participation and awareness of Census programs and surveys, and make data products more useful and accessible.

2. The Committee advises on topics such as hidden households, language barriers, students and youth, aging populations, American Indian and Alaska Native tribal considerations, new immigrant populations, populations affected by natural disasters, highly mobile and migrant populations, complex households, poverty populations, race/ethnic minorities, rural populations, and population segments with limited access to technology. The Committee also advises on data privacy and confidentiality concerns, the dynamic nature of new businesses, minority ownership of businesses, as well as other concerns impacting Census survey design and implementation.

3. The Advisory Committee discusses census policies, research and methodology, tests, operations, communications/messaging and other activities and advises regarding best practices to improve censuses, surveys, operations and programs. The Committee's expertise and experiences help identify cost-efficient ways to increase participation among hard-to-count segments of the population as well as ensuring that the Census Bureau's statistical programs are inclusive and continue to provide the Nation with accurate, relevant, and timely statistics.

4. The Committee uses formal advisory committee meetings, webinars, web conferences, working groups, and other methods to accomplish its goals, consistent with the requirements of the FACA. The Committee is encouraged to use Census Regional Office knowledge to help identify regional, local, tribal, and grass roots issues, and capture regional and local perspectives about Census Bureau surveys and programs. The Committee should use technology and video/web conferencing to reduce meeting and travel costs and to more fully engage working groups and hard to count populations.

5. The Committee functions solely as an advisory body under the FACA.

Membership

1. The Committee will consist of up to 32 members who serve at the discretion of the Director.

2. The Committee aims to have a balanced representation among its members, considering such factors as geography, age, gender, race, ethnicity, technical expertise, community involvement, knowledge of hard-to-count populations, and familiarity with Census Bureau programs and/or activities.

3. The Committee aims to include members from diverse backgrounds, including state, local, and tribal governments, academia, research, national and community-based organizations, and the private sector.

4. Membership shall include individuals, Special Government Employees (SGEs), who are selected for their personal expertise with the topics highlighted above and/or representatives of organizations (Representatives) reflecting diverse populations; national, state, local, and tribal interests; organizations serving hard-to-count populations, and community-based organizations. SGEs will be subject to the ethical standards applicable to SGEs. Members will be individually advised of the capacity in which they will serve through their appointment letters.

5. Membership is open to persons who are not seated on other Census Bureau stakeholder entities (e.g., State Data Centers, Census Information Centers, Federal State Cooperative on Populations Estimates program, other Census Advisory Committees, etc.). No employee of the federal government can serve as a member of the Advisory Committee.

6. Generally, members will serve for a three-year term. All members will be reevaluated at the conclusion of each term with the prospect of renewal, pending advisory committee needs. Active attendance and participation in meetings and activities (e.g., conference calls and assignments) will be considered when determining term renewal or membership continuance. Generally, members may be appointed for a second three-year term at the discretion of the Director.

7. Members are selected in accordance with applicable Department of Commerce guidelines.

Miscellaneous

1. Members of the Advisory Committee serve without compensation, but receive reimbursement for committee-related travel and lodging expenses.

2. The Advisory Committee meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Census Director or Designated Federal Official. All Advisory Committee meetings are open to the public in accordance with the FACA.

Nomination Process

1. Nominations should satisfy the requirements described in the Membership section above.

2. Individuals, groups, and/or organizations may submit nominations on behalf of candidates. All nominations *must* include a summary of the candidate's qualifications (resume´ or curriculum vitae), along with the nomination letter. Nominees must be able to actively participate in the tasks of the Advisory Committee, including but not limited to regular meeting attendance, committee meeting discussant responsibilities, review of materials, as well as participation in conference calls, webinars, working groups, and/or special committee activities.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks diverse Advisory Committee membership.

Dated: June 9, 2014.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2014–14105 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–012]

Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 17, 2014.

FOR FURTHER INFORMATION CONTACT: Brian Smith (202) 482–1766 or Brandon Custard (202) 482–1823; AD/CVD Operations, Office 2, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On February 20, 2014, the Department of Commerce (the Department) initiated an antidumping duty investigation of imports of carbon and certain alloy steel wire rod from the People's Republic of China. *See Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 79 FR 11077 (February 27, 2014) (*Initiation Notice*). Pursuant to section 733(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.205(b), the Department shall issue its preliminary determination no later than 140 days after the date of initiation.[1] Currently, the preliminary determination in this investigation is due on July 10, 2014.

On June 4, 2014, ArcelorMittal USA LLC, Charter Steel, Evraz Pueblo, Gerdau Ameristeel US Inc., Keystone Consolidated Industries, Inc., and Nucor Corporation (hereafter, the petitioners) made timely requests, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination in the investigation.[2] The petitioners stated that a postponement of the preliminary determination is necessary to ensure adequate time to analyze and submit comments on (1) the respondent's questionnaire responses; (2) separate rate applications submitted by other companies; and (3) surrogate values for consideration in the preliminary determination.

Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the Department initiated the investigation. Therefore, for the reasons stated above and because there are no compelling reasons to deny the petitioners' request pursuant to 19 CFR 351.205(e), the Department is postponing the preliminary determination in this investigation until August 29, 2014, which is 190 days from the date on which the Department initiated this investigation.

The deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 11, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–14158 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] In the *Initiation Notice,* the Department incorrectly stated that it would issue its preliminary determination no later than 140 days after the publication date of the initiation.

[2] *See* the petitioners' letter to the Department dated June 4, 2014.

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before July 7, 2014. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 14–009. Applicant: Ohio State University, E447 Scott Laboratory, Department of Mechanical and Aerospace Engineering, 201 West 19th Avenue, Columbus, OH 43210. Instrument: Diode pumped, solid state high speed Nd:YVO4 laser system. Manufacturer: Edgewave GmgH, Germany. Intended Use: The instrument will be used to conduct particle imaging velocimetry, and Rayleigh scattering and planar laser-induced fluorescence, to understand the fundamental roles of fluid turbulence on scalar mixing and reaction rates by studying fundamental fluid mechanics and chemical kinetics in turbulent flows with and without chemical reaction and combustion. The primary targets are non-reacting turbulent flows consisting of compressed air and combusting turbulent flows with fuels of methane and oxidizer of air. The products of combustion are water, carbon dioxide, and nitrogen. The instrument is required to operate over a broad range of experiment conditions with specific targets of repetition rates ranging from 1 to 50 kHz. At these repetition rates, a minimum output power of 20 Watts is required at all operating conditions. A high-quality beam profile of $M^2<2$ is also needed. The pulse duration of the laser must also be less than 10 nanoseconds. Without these characteristics, accurate velocity and scalar fields, including species concentration, temperature, and density cannot be measured. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 3, 2014.

Dated: June 10, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–14156 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Healthcare Equipment, Services, and Technologies Trade Mission to Egypt, Jordan, and Israel

May 16–21, 2015.

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, is organizing an executive-led healthcare equipment,

services, and technologies business development mission to Egypt, Jordan and Israel, with an optional stop in the West Bank, May 16–21, 2015. The purpose of the mission is to introduce representatives from U.S. firms and healthcare related trade associations to the region and to promote exports of U.S. healthcare products and services. Delegates will receive market briefings and participate in customized meetings with prospective partners. Companies may also participate in a stop in the West Bank city of Ramallah at an additional cost.

Targeted sectors include:

Products and services for maternal and child health needs
Medical equipment and supplies, including diagnostic, monitoring, and imaging equipment
Hospital and outpatient clinic design
Hospital management
E-health: healthcare management systems/software/network design
Laboratory and scientific equipment
Products for specialty areas such as oncology, cardiology, wound care, and plastic surgery
Products and services for implementing quality standards and accreditation
Robotics
Mobile clinics.

Commercial Setting

Governments across the Middle East and North Africa are increasingly aware that continual expansion and upgrading of healthcare systems are needed to meet the growing demand of the fast-growing population. The healthcare equipment, services, and technologies sector is one of the fastest growing sectors in Egypt and Jordan, where healthcare expenditure and demand are driven by demographic factors such as population growth and increased life expectancy, as well as higher literacy, an increasing prevalence of lifestyle-related diseases, increased aspirations for better quality healthcare services, greater availability of health insurance, and rising income levels. Israel offers a particularly technologically advanced setting for U.S. companies, with opportunities in both the public and private sectors.

The region's healthcare spending in 2013 was as follows: Egypt $9.5 billion, Jordan $1 billion and Israel $20 billion. The current state of healthcare infrastructure in the region is not adequate to satisfy existing demand. The healthcare equipment, services, and technologies expansion in the region is expected to grow at an annual rate of 5–8% in 2014. The region's objectives to upgrade healthcare will require purchases of medical equipment/services and renovation of existing hospitals/clinics. Over the next few years, the private sector will play a big role in further realizing the potential in healthcare projects throughout North Africa and the Levant. U.S. companies will benefit from exploring the market at early stages and introducing their advanced technologies.

Country Profiles

Egypt

With a population of over 85 million and a GDP of USD 219 billion, the Egyptian economy is one of the largest in the Arab World, and the second largest in the Middle East and North Africa (MENA) region. Despite its low per capita spending on healthcare, Egypt is the second-largest healthcare market in the MENA region after Saudi Arabia. The United States is Egypt's largest bilateral trading partner, and Egypt is the fourth largest export market for U.S. products and services in the MENA region.

Healthcare Equipment, Services, and Technologies

The healthcare sector in Egypt offers significant opportunities for U.S. exporters of medical equipment and devices, as well as for U.S. service providers in the long term, cutting across the entire spectrum of medical-related activities and requirements. Sales in medical devices totaled USD 484.7 million in 2013, a five percent increase from the previous year. It is estimated that the market for medical devices will be USD 970 million by 2016, and this is almost wholly made up from imports, as Egypt produces very little medical equipment.

The Egyptian Government's Healthcare Reform Program and the country's burgeoning population are generating demand for high-tech medical equipment and healthcare items. The Ministry of Health operates 1,300 hospitals or 60 percent of hospital beds. Universities, the Army, and the private sector constitute the remaining 40 percent. The government is expanding preventive medicine efforts; and in 2014 is developing 26 new hospitals, requiring purchases of medical devices. In addition, in 2013 consumer healthcare grew by 12 percent to USD 24.2 billion.

In line with the reform efforts to upgrade the overall healthcare system, it is expected that there will be future opportunities for U.S. firms that can offer the following services:

- Construction, management, and rehabilitation of hospitals and rural healthcare facilities;
- Emergency care (ambulatory) services;
- Training programs for nurses and physicians;
- Establishment of quality control of biological and laboratory centers;
- Development of quality standards for hospitals, laboratories, and healthcare institutions;
- Providing plans for regulator and accreditation bodies; and
- Training programs to include FDA-drug classification for government officials.

Best sales prospects medical devices and supplies include the following categories:

Diagnostic imaging equipment;
Oncology and radiology;
Disposables;
Surgical and medical equipment;
ICU monitoring equipment;
Laboratory and scientific equipment; and
Mobile clinics

Jordan

Jordan is strategically positioned at the crossroads of the Middle East-North Africa (MENA) region, centrally located between Europe, Asia, and Africa. The U.S.-Jordan Free Trade Agreement (FTA), which came into force in 2001, continues to create advantages for U.S. exporters, who are able to sell high-quality products at more attractive prices, as tariff barriers on the majority of goods traded between the United States and Jordan have been eliminated. Due to this FTA, bilateral trade has surged ten-fold over the past 13 years. Jordan remains a haven of stability for business interests and serves as a business hub in the region, including business investment to neighboring countries including Iraq.

Healthcare Equipment, Services, and Technologies

Jordan's healthcare system is regarded as one of the best in the area, boasting the latest technologies and highly educated, well trained doctors. Many Jordanian physicians have received some form of medical training in the United States, giving U.S. products good exposure. Jordan has become a regional medical tourism destination by offering relatively high-quality care at comparatively inexpensive rates. Through 104 hospitals, Jordan's healthcare sector serves its population and 250,000 patients from neighboring countries annually. Moreover, the World Bank ranked Jordan fifth in the world as a medical tourism hub. The medical tourism sector generates over $1 billion in revenues annually, which

is expect to increase to USD 1.5 billion by 2015.

The healthcare sector accounts for 10% of Jordan's GDP. It is growing at an annual expenditure rate of about 7%, the 3rd highest in the region. Imports of medical equipment and pharmaceuticals exceeded $450 million in the year 2013 and are expected to grow to $615 million by the end of 2016.

As part of the Government initiative to reform the healthcare sector, reforms underway include:

- Renovating and adding medical diagnostic devices and therapeutic equipment;
- Improving the quality of health care and hospital services;
- Establishing a number of new hospitals;
- Expanding and upgrading hospital infrastructure including the extension and modernization of pediatric facilities;
- Developing and implementing health information systems and medical research;
- Supporting the government hospitals' accreditation projects; and
- Improving emergency services.

The E-health care initiative is another key government program aiming to ensure the accountability of the health care system. The e-health system will operate the storage, retrieval and updating of the electronic health records of patients cared for by all the participating healthcare facilities in Jordan. The government began a pilot project of the system in 2011 and will expand it to the entire health care system, starting with public hospitals.

With planned improvements in the healthcare system, the introduction of more modern treatment methods, and the construction and renovation of both government and privately owned hospitals, demand for medical equipment and services is expected to increase. Proposed projects expected to come online within the next five years in the private and public sector include: expanding the Laser Dermatology Fertility Clinic (IVF Treatment) at Specialty hospital, and establishment of the Jerash, Ajloun, and Mafraq hospitals.

The best prospects in Jordan include:

Consulting in hospital administration;
Quality control and certification standards;
Laboratory and hospital administration software;
Diagnostic imaging equipment like C–T, MRI, and PET scanners;
Laboratory reagents and diagnostics;
Testing equipment;
Cardiology and kidney dialysis equipment; and
Hospital furniture

Israel

Israel has a diversified, technologically advanced economy with a strong high-tech sector. The country's strong commitment to economic development and its talented work force have led to economic growth rates that have frequently exceeded 10% annually. Israel's GDP in 2013 was $266 billion and its per capita GDP was $36,200. The United States is Israel's largest single-trading partner. In 2013, bilateral trade totaled $36 billion. Exports of U.S. goods to Israel totaled $13.7 billion. With a favorable dollar exchange rate, U.S. equipment suppliers currently enjoy a price advantage over EU-based manufacturers.

Healthcare Equipment, Services, and Technologies

Israel is a lucrative market for advanced healthcare technologies. Despite its small size and population of only 8 million, Israel imports medical and pharmaceutical products in the amount of $2 billion annually. The U.S. share is roughly 15% at $300 million. Germany and other EU countries are the major competitors, but U.S. products outranked the EU competition in imaging equipment and diagnostics. Easy market-entry conditions and receptiveness to buy U.S. technologies and services make Israel an ideal destination for U.S. healthcare exports.

Characterized by a technologically advanced market economy, Israel boasts a very high level of healthcare with an extensive infrastructure ranging from local community clinics to a world-renowned trauma centers. Israel spends 7.5% of its GDP on healthcare and has the largest per-capita healthcare market in the Middle East. Israel's public healthcare system ensures a universal healthcare coverage to its entire population via four health management organizations and a network of hospitals, community clinics and specialized doctors. Israeli healthcare facilities are modern and are open to adopt new, cost effective technologies and procedures. Many Israeli doctors receive training in the United States and maintain personal and professional relationships with U.S. colleagues at major medical centers.

Market access is fairly clear for U.S. FDA and CE Marked medical products. U.S. companies interested in exporting to Israel need to appoint a local distributor, agent or other legal representative to register their products with the Israel Ministry of Health (MOH). The device registration should be accompanied by a 510(k), Pre-Market Approval (PMA) or an Investigational Device Exemption (IDE). Best sales prospects exist in the advanced medical technologies, instruments and disposables in the following categories:

Advanced Diagnostic Procedures
Image-Guided Technologies
Smart Implants
Preventive Medicine
Point of care and wound management technologies

The West Bank (Optional Stop)

The West Bank has a land area of 5,640 square kilometers (including East Jerusalem). Along with Gaza, it is collectively referred to as the Palestinian Territories. The population in the Palestinian West Bank and Gaza is four million. The population growth rate is 3.9% and around 50% of the population is 18 years or younger. In 2012, GDP in the West Bank & Gaza reached an estimated $10.30 billion, with $7.70 billion in the West Bank and $2.60 billion in Gaza, and per capita GDP was $2,239.

The West Bank experienced a limited revival of economic activity in the period 2009–2012. This revival was a result of inflows of donor assistance, the PA's implementation of economic reforms, improved security, and the relative easing of movement and access restrictions within the West Bank by the Israeli Government. The PA under President Mahmoud Abbas and previous Prime Minister Salam Fayyad has implemented a largely successful campaign of institutional reforms and economic development that has contributed to economic growth, and which has been supported by more than $3 billion in direct foreign donor assistance to the PA's budget since 2007.

Many American companies have reoriented their marketing efforts to acknowledge the Palestinian market as culturally, economically, and commercially distinct from the Israeli market. To date, dozens of American firms have established a presence and Palestinian consumers have demonstrated a strong preference for a wide variety of U.S. goods and services.

Healthcare Equipment, Services, and Technologies

The medical equipment and supplies market in the West Bank and Gaza is estimated to be $20 million annually. The market is made up of medical capital equipment, medical supplies, lab equipment and lab disposable supplies. There is no domestic production of medical equipment and supplies, so Palestinians depend 100% on imports. There are no import duties on U.S.-

made goods entering the West Bank. However, products are subject to both a purchase tax and a value added tax that is currently 14.5%.

The majority of the Palestinian population relies on medical services provided by public hospitals that are run by the Palestinian Ministry of Health under a general health insurance program. The total number of public and private hospitals in the West Bank and Gaza is 72 and the total number of beds is 5,000.

The U.S. share of the market is roughly 15% of the total, but this is likely to change due to two factors. First is the falling value of the U.S. dollar vs. the Euro. Second is the continued support by USAID of healthcare projects in the West Bank since USAID regulations stipulate that funds can be spent on American-made equipment only, and the Agency continues to be the main donor for this sector.

The best prospects include:

Medical disposables;
Surgical instruments;
Ophthalmic testing and surgery equipment;
Ultrasounds;
MRI, CT, X-ray;
Orthopedic implants; and
Laboratory equipment and disposables.

Mission Goals

The goal of this trade mission is to facilitate greater access to the Egypt, Jordan, and Israel markets by providing participants with first-hand market information, access to government decision makers, and one-on-one appointments with business contacts, including potential agents, distributors, and partners. For the medium and longer term, the goal is to educate participants on the healthcare-related environment in the region in order to arm them with the ability to sustain and expand their business in the region.

Mission Scenario

The trade mission will include the following stops: Cairo, Amman and Tel-Aviv (with an optional stop in Ramallah, West Bank). In each city, participants will meet with business and government contacts.

MISSION TIMETABLE

Egypt	
Saturday—May 16 Sunday—May 17	• Arrive in Cairo, Egypt. • Overnight stay. • Breakfast briefing by industry experts. • Industry Roundtable. • One-on-one business meetings. • Networking Dinner or optional excursion. • Overnight stay.
Egypt/Jordan	
Monday—May 18	• One-on-one business meetings. • Networking lunch hosted by a Chamber. • Evening travel to Amman, Jordan. • Overnight stay.
Jordan	
Tuesday– May 19	• Breakfast briefing by industry experts. • One-on-one business meetings. • Networking lunch with local industry representatives. • Early Evening Departure from Jordan to Tel Aviv. • (overnight stay in Tel Aviv).
Israel	
Wednesday—May 20	• Industry Roundtable. • One-on-one business meetings (AM). • Networking luncheon. • One-on-one business meetings (PM). • Wheels-up Cocktail. • Non-West Bank participants return to United States on own itinerary.

MISSION TIMETABLE—Continued

Israel/West Bank (Optional)	
Thursday—May 21	• Travel to Jerusalem. • Depart Jerusalem to Ramallah. • One-on-One Meetings in Ramallah. • Return to Jerusalem then TelAviv to travel to U.S. • Evening departure or Overnight stay on own itinerary.

Participation Requirements

All parties interested in participating in the Trade Mission to Egypt, Jordan, and Israel must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 12 and maximum of 15 representatives will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with Egypt, Jordan, Israel, and the West Bank as well as U.S. companies seeking to enter these markets for the first time may apply.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service. In the case of a trade association/organization, the applicant must certify that for each company to be represented by the association/organization, the products and services the represented company seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have a least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation: Selection will be based on the following criteria with respect to the applicant's company, or in the case of a trade association/organization, the companies the association/organization intends to represent on the mission:

- Relevance of the company's business to the mission goals.
- Suitability of the company's products or services for the Egyptian, Jordanian, Israeli, and (as applicable)West Bank markets.
- Applicant's potential for business in Egypt, Jordan, Israel, (or the West Bank) including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

Diversity of company size and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Fees and Expenses

After a firm or trade association/organization has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the business development mission will be $3,325.00 for a small or medium-sized enterprise (SME) [1] or trade association/organization with fewer than 500 employees; and $4,625.00 for large firms. The fee for each additional trade association/organization representative or firm representative (large firm or SME) is $1,000. The cost for the West Bank optional meetings is in addition to the mission participation fee above, at $750 per SME and $2,300 per large firm. Ground group transportation costs in Egypt, Jordan, and Tel Aviv have been included in the cost. Except as otherwise noted, expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. If necessary, interpreter services have been included for government meetings.

The mission fee does not include personal travel expenses such as lodging, most meals, local ground transportation, except as stated in the proposed timetable, and air transportation from the U.S. to the mission sites and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

VIII. Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than MARCH 13, 2015. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis. Applications received after MARCH 13,

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

2015, will be considered only if space and scheduling constraints permit.

Contacts:

Geoffrey Bogart, Commercial Counselor/NAL Healthcare mentor, U.S. Commercial Service—Jordan, Tel: +962–6–590–6629, *Geoffrey.Bogart@trade.gov.*

Muna Farkouh, Senior Commercial Specialist/NAL Healthcare Team Leader, U.S. Commercial Service—Jordan, Tel: +962–6–590–6057, *Muna.Farkouh@trade.gov.*

Patricia Molinaro, International Trade Specialist—Project Officer, Northern NJ Export Assistance Center, U.S. Department of Commerce/International Trade Administration, Tel: 973–645–4682 x 212, *Patricia.Molinaro@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–14063 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD322

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. This EFP would allow two commercial fishing vessels to fish outside of the limited access scallop days-at-sea (DAS) program in support of scallop incidental mortality research conducted by the Coonamessett Farm Foundation. It would also allow the vessels to fish in the Eastern and Western Areas of the Nantucket Lightship Closed Area. Additionally, the EFP would exempt participating vessels from the crew size restriction and reporting requirements, and would allow vessels to temporarily possess various species of fish for sampling purposes only.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before July 2, 2014.

ADDRESSES: You may submit written comments by any of the following methods:

- *EMail: nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on Coonamessett 2014 Incidental Mortality EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Coonamessett 2014 Incidental Mortality EFP.''
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fisheries Management Specialist, 978–282–8493, *Liz.Sullivan@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Coonamessett Farm Foundation has been awarded a grant through the Atlantic sea scallop research set-aside program to conduct a project titled: ''Estimating Incidental Mortality in the Sea Scallop Fishery.''

The project investigators have proposed to use a Remotely Operated Vehicle (ROV), dredge-mounted cameras, and a camera trolley to examine the dredge path of a 4.57-meter-wide Turtle Deflector Dredge to calculate incidental mortality of scallops. The researchers plan on conducting three trips, two in July and August 2014, and a third in July 2015, on two fishing vessels. Each trip will be five to six days-at-sea (DAS), with approximately 6 tows/day, for a total of approximately 30 tows per trip. The tows would be made on commercial scallop grounds in Southern New England, including the Eastern and Western portions of Nantucket Lightship Closed Area, where sector groundfish vessels have been given a FY2014 exemption to fish (see coordinates later in this preamble). This excludes the central portion, which is an Essential Fish Habitat closure area, 50 CFR 648.81(h)(vi). The paths would be made by a dredge equipped with forward facing cameras towed at commercial speed (4.5 knots) and would be 500 meters long, for a maximum duration of 30 minutes. Video data would be collected by the ROV in such a manner as to determine the quantity and condition of species left in the dredge path with the main focus being on sea scallops. Dredge catches would be examined to evaluate dredge efficiency, discard mortality, and meat losses associated with scallop condition and processing. Researchers expect to conduct at most one trip within portions of the Nantucket Lightship Closed Area, in order to examine an area with low fishing pressure. No catch would be retained for sale. All scallops and fish would be returned to the sea after video monitoring of the tow path is completed.

The applicant anticipates catching the following amount of fish on each trip:

Species	Estimated lbs in 30 tows
Sea scallop	600
Yellowtail flounder	150
Winter flounder	150
Windowpane flounder	150
Summer flounder	150
Fourspot flounder	150
American plaice	75
Grey sole	75
Haddock	25
Atlantic cod	25
Monkfish	150
Spiny dogfish	50
Barndoor skates	100
Little skates	500
Winter skates	500

To conduct this study, Coonamessett Farm Foundation investigators submitted a complete EFP application on April 11, 2014, requesting an exemption allowing two commercial fishing vessels to fish outside of the limited access Atlantic sea scallop DAS regulations found at 50 CFR 648.53(b). In addition, the EFP would exempt participating vessels from the crew size regulations at 50 CFR 648.51(c); reporting requirements specified in 50 CFR 648.7(f); and regulations preventing fishing in the Nantucket Lightship Closed Area specified in 50 CFR 648.81(c) and 50 CFR 648.59(d).

The waters in the Eastern Area of the Nantucket Lightship Closed Area are defined by straight lines connecting the following points in the order stated here:

Point	N. lat.	W. long.
A	40°50′	69°30′
B	40°50′	69°00′
C	40°20′	69°00′
D	40°20′	69°30′
A	40°50′	69°30′

The waters in the Western Area of the Nantucket Lightship Closed Area are defined by straight lines connecting the following points in the order stated here:

Point	N. lat.	W. long.
A	40°50′	70°20′
B	40°50′	70°00′
C	40°20′	70°00′
D	40°20′	70°20′
A	40°50′	70°20′

As stated above, this excludes the central portion of the Nantucket Lightship Closed Area, which is an Essential Fish Habitat closure area. The EFP would also temporarily exempt participating vessels from possession limits and minimum size requirements specified in 50 CFR part 648, sub-sections B and D through O, for sampling purposes only. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impact that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 12, 2014.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–14155 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice of Public Meetings on Copyright Policy Topics

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Public Roundtables; Address Updates.

SUMMARY: On April 18, 2014, Department of Commerce's Internet Policy Task Force (Task Force) announced its plan to hold four roundtables in cities across the United States in May, June, and July 2014 regarding the topics identified below, as set forth in the Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy* (Green Paper). This notice announces the location of the third meeting to be held in Los Angeles, California on July 29, 2014, and provides an update to the location of the fourth meeting to be held in Berkeley, California on July 30, 2014.

DATES: The third roundtable will be held in Los Angeles, California on July 29, 2014. The fourth roundtable will be held in Berkeley, California on July 30, 2014. Both roundtables will begin at 8:30 a.m. Requests to participate and observe are due three weeks in advance of each of the respective roundtables on the following dates, by 5:00 p.m. E.S.T.: July 8, 2014 for the Los Angeles roundtable, and July 9, 2014 for the Berkeley roundtable. The agendas and webcast information will be available a week before each of the roundtables on the Task Force Web site, *http://www.ntia.doc.gov/internetpolicytaskforce* and the USPTO's Web site, *http://www.uspto.gov/ip/global/copyrights/index.jsp.*

ADDRESSES: The Task Force will hold the third roundtable on July 29, 2014 at Loyola Law School, Walter J. Lack Reading Room, 919 Albany Street, Los Angeles, California 90015. The Task force will hold the fourth roundtable on July 30, 2014, at UC Berkeley School of Law, Boalt Hall, Booth Auditorium, 215 Bancroft Way, Berkeley, California 94720.

FOR FURTHER INFORMATION CONTACT: For further information regarding the roundtables, please contact Ann Chaitovitz, Ben Golant, or Hollis Robinson, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9300. Email questions should be sent to *copyrightpolicyroundtable@uspto.gov.* Sign up for the USPTO's Copyright Alert subscription at *enews.uspto.gov* to receive updates about the roundtables. Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION: In the Task Force's Green Paper on Copyright Policy, Creativity, and Innovation in the Digital Economy (Green Paper), released on July 31, 2013, and in its later Request for Comments issued on October 3, 2013, the Task Force stated its intention to convene roundtables on certain copyright topics, namely: the legal framework for the creation of remixes, the relevance and scope of the first sale doctrine in the digital environment, and the appropriate calibration of statutory damages in the contexts of individual file sharers and of secondary liability for large-scale infringement. On April 16, 2014, the Task Force announced its plans to hold four roundtables in Nashville, Tennessee on May 21, 2014; Cambridge, Massachusetts on June 25, 2014; Los Angeles, California on July 29, 2014; and Berkeley, California on July 30, 2014.[1] Through this Notice, the Task Force provides the address for the roundtable in Los Angeles, California, and updates the address for the roundtable in Berkeley, California.

Interested parties may request to participate in, or to observe, the roundtable discussions by submitting a request form, available at *https://www.signup4.net/public/ap.aspx?EID=THEG32E&OID=130.*[2] Participation will entail responding to questions from Task Force members and engaging with other participants, whereas observation will entail listening to, but not participating in, the discussions, although there will be time for observers to comment at the end of the discussion. Parties who wish to attend roundtables in multiple locations should submit a separate request form for each location. When completing request forms, interested parties should identify the particular discussion or discussions they wish to participate in or observe. The Task Force will respond to the requests to participate or observe two weeks before the day the roundtable will be held. Please note that the Task Force may not be able to grant all requests but will seek to maximize participation to the extent possible.

Participants and observers should arrive at least one-half hour prior to the start of the roundtable and must present valid government-issued photo identification upon arrival. The Task Force will provide additional information on directions and parking in the agendas for each of the roundtables.

The roundtables will be webcast. A transcription service will also be present. The transcriptions will be made available on both the Task Force and USPTO Web sites after each roundtable.

The roundtables will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation, real-time captioning of the webcast or other ancillary aids, should

[1] *See* Department of Commerce (Patent and Trademark Office and National Telecommunications and Information Administration), Notice of Public Roundtables, 79 FR 21439 (April 16, 2014), *available at http://www.ntia.doc.gov/files/ntia/publications/copyright_issues_notice_of_public_roundtables.pdf.*

[2] Individuals who are unable to send requests via the Web site should contact Hollis Robinson at (571) 272–9300 to make alternative arrangements for submission of their requests to participate.

communicate their needs to Hollis Robinson, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9300; email *hollis.robinson@uspto.gov,* at least seven (7) business days prior to the roundtable.

Dated: June 12, 2014.

Kathy Smith,

Chief Counsel.

[FR Doc. 2014–14092 Filed 6–16–14; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0149]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 17, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: 2014 Speak Up Survey; OMB Control Number; 0704–TBD.

Type of Request: New.

Number of Respondents: 1292.

Responses per Respondent: 1.

Annual Responses: 1292.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 431.

Needs and Uses: The Speak-Up National Survey is an annual online survey created and administered by Project Tomorrow. DoDEA will participate in the survey in order to gather information from students and parents of students attending DoDEA schools on the use of technology in education throughout the United States. The survey provides data on how these groups are using and would like to use technology for learning in and out of school. Broad areas of information gathered via the surveys include: the benefits of using technology for learning; attitudes and interest in math and science, as well as career aspirations; how respondents self-assess their 21st century skills competencies. The information gathered via the surveys does not currently exist, especially in a format that allows comparisons between DoDEA and national trends. The data resulting from the survey will be used by DoDEA as a planning tool and needs assessment. The information from the survey as compared with national trends will be effective in assisting DoDEA in providing well-planned technology initiatives that meet the needs of our military-connected students and other stakeholders. The data will also be used to plan training and professional development for DoDEA employees, especially teachers, as it will accurately reflect the needs of teachers and other staff members alike. The data are essential to meet the President's charge in the recent technology-focused ConnectED initiative as well as the Presidential Study Directive 9: Strengthening Military Families, which states that ''The Department of Defense commits to making DOD Education Activity (DODEA) schools a leader in the use of advanced learning technologies that have the potential to significantly improve student performance.''

Affected Public: Individuals or Households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: June 12, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–14115 Filed 6–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board of Visitors for the Western Hemisphere Institute for Security Cooperation (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Board is a nondiscretionary Federal advisory committee that shall provide independent advice and recommendations on matters pertaining to the operations and management of the Western Hemisphere Institute for Security Cooperation (''the Institute''). The Board shall:

a. Inquire into the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Institute; other matters relating to the Institute that the Board decides to consider; and any other matter that the Secretary of Defense determines appropriate.

b. Review the curriculum to determine whether it adheres to current U.S. doctrine, complies with applicable U.S. laws and regulations, and is consistent with U.S. policy goals toward Latin America and the Caribbean.

c. Determine whether the instruction under the curriculum of the Institute appropriately emphasizes human rights, the rule of law, due process, civilian control of the military, and the role of the military in a democratic society.

The Board shall report to the Secretary of Defense and the Deputy Secretary of Defense, through the Secretary of the Army. The Secretary of

Defense, the Deputy Secretary of Defense, or the Secretary of the Army may act upon the Board's advice and recommendations.

The Department of Defense (DoD), through the Secretary of the Army, shall provide support, as deemed necessary, for the performance of the Board's functions and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (''the Sunshine Act''), governing Federal statutes and regulations, and established DoD policies and procedures.

Pursuant to 10 U.S.C. 2166(e), the Board shall be comprised of 14 members; six of whom will, to the extent practicable, have professional experience in academia, religious institutions, and human rights communities. The remaining members, pursuant to 10 U.S.C. 2166(e), shall include the following regular government employee (RGE) members:

a. Two Members of the Senate (the Chair and Ranking Member of the Armed Services Committee or a designee of either of them);

b. Two Members of the House of Representatives (the Chair and Ranking Member of the Armed Services Committee or a designee of either of them);

c. One person designated by the Secretary of State;

d. The senior military officer responsible for training and doctrine in the U.S. Army (or designee); and

e. The Combatant Commanders with geographic responsibility for the Western Hemisphere (U.S. Northern and Southern Command) (or the designees of those officers).

Those individuals, whose appointments to the Board will be designated or affirmed by the Secretary of Defense or Deputy Secretary of Defense, will be appointed for a term of service of one-to-four years, and their appointments will be renewed on an annual basis pursuant to DoD policies and procedures. None of these members, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service on the Board, to include its subcommittees. Board members, who are not full-time or permanent part-time federal employees, shall be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as special government employee (SGE) members. Those individuals serving on the Board who are full-time or permanent part-time Federal employees shall be appointed to serve as regular government employee (RGE) members, pursuant to 41 CFR 102–3.130(a). All members of the Board are appointed to provide advice to the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

The Secretary of Defense, in consultation with the Secretary of the Army, shall appoint the Board's Chair from the total membership. In addition, The Secretary of the Army, at the request of the Board and with the approval of the Secretary of Defense or Deputy Secretary of Defense, may appoint non-voting subject matter experts or consultants to assist the Board or its subcommittees on an ad hoc basis. These non-voting subject matter experts or consultants are not members of the Board or its subcommittees, will not engage or participate in any deliberations by the Board or its subcommittees, and do not have the ability to vote as members of the Board or its subcommittees. These non-voting subject matter experts or consultants, if not full-time or permanent part-time federal employees, will be appointed as experts and consultants, pursuant to 5 U.S.C. § 3109, to serve as SGEs, whose appointments must be renewed on an annual basis. Those individuals who are full-time or permanent part-time federal employees shall be appointed to serve as RGE non-voting subject matter experts or consultants.

With the exception of reimbursement of official Board-related travel and per diem, Board members and any non-voting experts or consultants shall serve without compensation.

The Department, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army, as the Board's Sponsor.

Such subcommittees shall not work independently of the chartered Board, and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, on behalf of the Board, directly to the DoD or any Federal officers or employees.

The Board shall establish and maintain two permanent subcommittees, whose members shall be comprised of individuals with professional experience in academia, religious institutions, and human rights communities. Each subcommittee shall be comprised of no more than eight members.

a. Subcommittee on Education: Provides independent advice and recommendations for the Board's consideration on the Institute's curriculum and the current challenges faced by our international partners' government, military, and law enforcement agencies, to determine if new topics should be considered for inclusion; also makes recommendations on adjustments to the curriculum or courses that are no longer applicable.

b. Subcommittee on Outreach: Provides independent advice and recommendations for the Board's consideration on developing an outreach plan of action to strengthen support for the Institute among influential officials from our international partners to increase student and instructor attendance and encourage burden sharing; strengthen support for the Institute from key U.S. military, civilian, governmental and interagency personnel to sustain funding levels and expand the Institute's role; and develop an outreach plan to identify new partner nations that may be interested in sending students, instructors, guest lectures, or liaison officers to the Institute.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Board. Subcommittee members shall not serve more than two consecutive terms of service, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense.

Subcommittee members, if not full-time or permanent part-time federal employees, will be appointed as experts or consultants, pursuant to 5 U.S.C. § 3109, to serve as SGE members. Those individuals who are full-time or permanent part-time Federal employees shall be appointed to serve as RGE members, pursuant to 41 CFR § 102–3.130(a). All subcommittee members are appointed to provide advice for the Board's consideration to the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. With the exception of reimbursement of official travel and per diem, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures. The Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures.

In addition, the DFO is required to be in attendance at all meetings of the Board and any subcommittees, for the entire duration of each and every meeting; however, in the absence of the DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of all meetings of the Board or its subcommittees.

The DFO or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Board of Visitors for the Western Hemisphere Institute for Security Cooperation membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board of Visitors for the Western Hemisphere Institute for Security Cooperation.

All written statements shall be submitted to the DFO for the Board of Visitors for the Western Hemisphere Institute for Security Cooperation, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board of Visitors for the Western Hemisphere Institute for Security Cooperation DFO can be obtained from the GSA's FACA *Database—http://www.facadatabase.gov/*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Board of Visitors for the Western Hemisphere Institute for Security Cooperation. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: June 12, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–14149 Filed 6–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Public Availability of Defense Nuclear Facilities Safety Board FY 2012 Service Contract Inventory Analysis/FY 2013 Service Contract Inventory

AGENCY: Defense Nuclear Facilities Safety Board (DNFSB).

ACTION: Notice of Public Availability of FY 2012 Service Contract Inventory Analysis and FY 2013 Service Contract Inventory.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), DNFSB is publishing this notice to advise the public of the availability of (1) its analysis of the FY 2012 Service Contract inventory and (2) the FY 2013 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, and on December 19, 2011, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/omb/procurement-service-contract-inventories*. DNFSB has posted its FY 2012 analysis and FY 2013 inventory and a summary of the inventory on the DNFSB homepage at the following link: *http://www.dnfsb.gov/open*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Mark Welch at 202–694–7043 or *Mailbox@dnfsb.gov.*

Dated: June 11, 2014.

Mark T. Welch,

General Manager.

[FR Doc. 2014–14077 Filed 6–16–14; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Center for Systemic Improvement

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Center for Systemic Improvement.

Notice inviting applications for a new award for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326R.

DATES:

Applications Available: June 17, 2014.

Deadline for Transmittal of Applications: August 18, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Center for Systemic Improvement

Background

The purpose of this priority is to fund a cooperative agreement to establish and operate a Center for Systemic Improvement (Center). This will be a national center with a focus on providing TA to State educational agencies (SEAs) and lead agencies (LAs)

to help build their capacity [1] to support local educational agencies (LEAs) and early intervention services (EIS) programs and providers in improving educational results and functional outcomes for children with disabilities.[2] Specifically, the Center will provide high-quality TA to States to:

(1) Increase the capacity of SEAs and LAs to develop, implement, and evaluate their State Systemic Improvement Plans (SSIPs) to achieve improved outcomes for children with disabilities;

(2) Increase SEAs' and LAs' knowledge, selection, and utilization of evidence-based practices (EBPs) [3] to improve results for children with disabilities;

(3) Improve SEA and LA infrastructure [4] and coordination within SEAs and LAs for delivering effective TA on implementing and scaling-up effective strategies, stakeholder engagement, resource mapping and allocation, and instructional collaboration;

(4) Increase the use of effective dissemination strategies by SEAs and LAs to ensure LEAs and EIS programs and providers have access to EBPs and select and implement those EBPs in a sustainable manner;

(5) Increase the effectiveness of SEAs and LAs to meaningfully engage State and local stakeholders in the development and implementation of the SSIP;

(6) Increase the capacity of SEAs and LAs to effectively utilize TA resources funded by the Department of Education (Department) (e.g., Technical Assistance and Dissemination Network centers, Comprehensive Centers, Regional Education Laboratories, Equity Assistance Centers) and other centers (e.g., Head Start TA centers), as appropriate; and

(7) Increase the capacity of SEAs and LAs to implement general supervision systems that support effective implementation of the IDEA, including meeting its requirements and improving educational results and functional outcomes for children with disabilities.

The Office of Special Education Programs (OSEP) is committed to supporting States in their efforts to improve educational results and functional outcomes for all children with disabilities, and to incorporate those efforts into broader statewide improvement initiatives. In 2012, OSEP announced its intention to redesign its accountability framework and move to Results-Driven Accountability (RDA). Since then, OSEP has been aligning its activities and resources to more effectively support States' capacity to improve educational results and functional outcomes for children with disabilities, while continuing to assist States in ensuring compliance with IDEA's requirements.

RDA represents a results-focused approach to both monitoring and supporting States' implementation of both the results and compliance mandates of IDEA. The RDA system includes three major components: (1) The State Performance Plan (SPP)/Annual Performance Report (APR); (2) OSEP's annual State determinations; and (3) differentiated monitoring and support. Sections 616(a) and 642 of IDEA require the Department to monitor States through SPPs/APRs and through oversight of States' general supervision systems and to make annual determinations of each State's performance using data from the APR and other publicly available information. A differentiated system of monitoring and support will use results data and other information about a State to determine the appropriate intensity, focus, and nature of the oversight and support that each State will receive as part of RDA. The SPP/APR for the period Federal Fiscal Year 2013–2018 includes a new requirement for an ambitious, yet achievable, comprehensive multi-year SSIP aimed at improving educational results and functional outcomes for children with disabilities. The SSIP contains three phases: (1) Analysis of data and other information to provide a foundation for the SSIP; (2) development of the SSIP; and (3) implementation and evaluation of the SSIP. During the first phase, States are required to conduct a thorough data and infrastructure analysis, identify the State-identified measurable result or results to be achieved for children with disabilities, select coherent improvement strategies, and develop a theory of action. The State may select a single result (e.g., increasing early childhood outcomes (for Part C) or graduation rate for children with disabilities) or a cluster of related results (e.g., increasing the graduation rate and decreasing the dropout rates for children with disabilities).

Phase two builds on this analysis and requires States to develop the SSIP. The SSIP will address how the State's infrastructure can better support local-level implementation of EBPs to improve educational results and functional outcomes for children with disabilities. In addition, in this phase of the SSIP, the State will identify its targets for its State-identified measurable result(s) to evaluate the State's implementation of the SSIP.

The final phase requires the States to evaluate and report its progress in implementing the SSIP and in achieving the State-identified measurable result(s) for children with disabilities.

A focus on improved outcomes requires States to design systemic approaches to successfully engage in the work of improvement throughout the State. According to Barr (2012), this focus requires States to: (1) Work across the SEA/LA to better integrate and align its resources, services, and efforts; and (2) redesign work processes at all levels to improve capacity at local levels, which are key activities of the SSIP. In addition, the SSIP requires States to: (1) Identify root causes that have an impact on outcomes; and (2) select and apply a coherent set of improvement strategies to address root causes and build local capacity to implement EBPs in a sustainable manner. As States work to support local-level improvement by improving and aligning their resources and redesigning their work, States will need high-quality TA responsive to their unique needs in each of the areas identified above.

In a recent survey, State TA specialists identified State and local capacity-building as their greatest TA need (Daley, Fiore, Bollmer, Nimkoff, & Lysy, 2013). Other research highlights the challenges for SEAs, LAs, LEAs, and EIS programs in building capacity to

[1] For the purpose of this priority, ''capacity'' broadly refers to the ability of the education system to help all students meet more challenging standards (CPRE Policy Brief: Building Capacity for Education Reform—December 1995) and the ability of the early intervention system to improve developmental and functional outcomes for infants and toddlers with disabilities and their families.

[2] For the purpose of this priority, ''children with disabilities'' refers to infants, toddlers, children, and youth with disabilities served under both Parts B and C of IDEA. For the purposes of this priority, the term ''educational results'' and ''functional outcomes'' includes ''early intervention'' results and ''developmental outcomes'' for infants and toddlers with disabilities and their families under IDEA.

[3] For the purpose of this priority, ''evidence-based practices'' refers to a process, product, strategy, or practice being proposed that, at a minimum, meets minimal evidence of effectiveness according to the What Works Clearinghouse Evidence Standards (*http://ies.ed.gov/ncee/wwc/).* A rating of minimal evidence suggests that the panel cannot point to a body of research that demonstrates the practice's positive effect on student achievement. In some cases, this simply means that the recommended practices would be difficult to study in a rigorous, experimental fashion; in other cases, it means that researchers have not yet studied this practice, or that there is weak or conflicting evidence of effectiveness. A minimal evidence rating does not indicate that the recommendation is any less important than other recommendations with a strong or moderate evidence rating.

[4] State systems that make up SEA or LA infrastructure include, at a minimum: governance, fiscal, quality standards, professional development, data, TA, and accountability/monitoring.

provide effective TA that assists schools and EIS providers in implementing effective practices to improve educational results and functional outcomes for children with disabilities (Daley et al., 2013; Hanes, Kerins, Perlman, Redding, & Ross, 2012; Reville, 2007). LEAs report that when they need assistance to address educational issues, they are most likely to turn to the State for support (U.S. Department of Education, 2000).

States' capacity to (1) conduct comprehensive data analyses; (2) assess the effectiveness of their policies, strategies, and programs; and (3) appropriately select and sustain the implementation of a coherent set of strategies to improve outcomes may be constrained by the lack of collaborative or strategic leadership at the State level, difficulties leveraging expertise, and an insufficient number of skilled State-level staff to work with local agencies and programs (LeFloch, Boyle, & Therriault, 2008; Unger et al., 2008).

In addition to these challenges, there is often a lack of coordination and collaboration between special education and general education systems in the State (Bonner-Tompkins, 2005), and early care and education programs and services (National Governors Association, 2010). Even though State organizational structures may be focused on similar goals, most SEAs and LAs budget by program and the budgets are rarely coordinated to specific strategic objectives that may be cross-cutting across different State-level programs. This lack of coordination in budgeting and programming has resulted in State systems being ineffective in responding to the emerging needs of local agencies and programs (e.g., general education department school improvement teams provide TA to focus and priority schools in need of improvement that include students with disabilities, but special education department staff are often not members of the improvement teams and are not consulted on strategies that work with these students) (Barr, 2012).

A review of the literature on developing effective systems within a coherent State infrastructure suggests that States also need support in disseminating information on EBPs to effectively promote their implementation at local levels. Traditional ways of disseminating this information (e.g., journals, conferences, and presentations) often do not lead to meaningful changes in practice and, therefore, are unlikely to have an impact on educational results and functional outcomes (Winton, 2006). Effective dissemination of information can play an important role in the initial formation of attitudes and beliefs about effective practices (Cook, Cook, & Landrum, 2013).

Meaningful engagement of stakeholders can be an effective method for improving dissemination and local implementation of EBPs (Cashman et al., 2014) and is a critical part of each State's development and implementation of its SSIP. Authentic engagement of stakeholders (e.g., parents and families of children with disabilities, LEAs, TA providers, policy makers, EIS programs and providers, advocates, the State Advisory Panel, the State Interagency Coordinating Council, general education, etc.) helps the SEA and LA to obtain input, and coalesce support around and address, difficult educational and early childhood issues; this input should be part of the State's SSIP as it identifies and implements an effective approach to support improved educational results and functional outcomes for children with disabilities and their families (Cashman et al., 2014). Therefore, it is essential that States meaningfully engage stakeholders throughout the development, implementation, and evaluation of the SSIP.

In prior years, OSEP has supported six regional resource centers (RRCs) to provide TA that was targeted to address State-specific needs related to meeting the program requirements of Parts B and C of IDEA. Under this priority, the proposed Center will have flexibility in the provision of TA, to enable States to convene around common challenges and opportunities, rather than on the basis of geographic region. For instance, there would be the flexibility to convene around issues ranging from challenges based on demographics (such as those facing rural or urban States, those with a large enrollment, or States with high numbers of English Learners (ELs)), around specific topics, or some other approach that best meets the needs of States as they implement their SSIPs.

This Center will build upon and advance previous work of the RRCs by supporting States in the development, implementation, and evaluation of their SSIPs and improvement of their general supervision systems. In part, this will require assisting States with data and infrastructure analyses on which to base the selection of a State-identified measurable result(s) for children with disabilities, mapping of existing resources and coordination of those resources, selection of a set of coherent improvement strategies and activities that will improve the State-identified measurable result(s) for children with disabilities, and support for meaningful stakeholder engagement.

In addition, the Center will have an ongoing role in supporting States with SSIP implementation activities, including: (1) Developing and strengthening the State infrastructure to support local-level implementation and scale-up of EBPs; (2) assessing specific strategies to leverage existing capacity and resources to support SSIP implementation; (3) drawing on and promoting the use of research on implementation of EBPs; and (4) assessing the measures needed to evaluate the effectiveness of the implementation of EBPs and the State's progress toward improving the State-identified measurable result(s) for children with disabilities.

The Center will need to engage in collaborative TA activities with other Department-funded TA centers and other TA centers (e.g., Head Start TA centers), as appropriate, to effectively support the development and implementation of SSIPs and improve general supervision systems. This collaborative approach will also help to facilitate the alignment of States' SSIPs with other key Federal reform efforts.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate a Center for Systemic Improvement to achieve, at a minimum, the following expected outcomes:

(1) Increased capacity of SEAs and LAs to develop, implement, and evaluate their SSIPs to achieve improved outcomes for children with disabilities as part of their SPP/APRs under Parts B and C of IDEA;

(2) Increased SEA and LA knowledge, selection and utilization of EBPs to improve results for children with disabilities;

(3) Improved SEA and LA infrastructure and coordination within SEAs and LAs for delivering effective TA on implementing and scaling-up effective strategies, stakeholder engagement, resource mapping and allocation, and instructional collaboration;

(4) Increased use of effective dissemination strategies by SEAs and LAs to ensure LEAs and EIS programs/providers have access to EBPs and implement those EBPs in a sustainable manner;

(5) Increased effectiveness of LEAs and LAs to meaningfully engage State and local stakeholders in the development and implementation of the SSIP;

(6) Increased capacity of SEAs and LAs to effectively utilize TA resources funded by the Department (e.g.,

Technical Assistance and Dissemination Network centers, Comprehensive Centers, Regional Education Laboratories, Equity Assistance Centers) and other TA centers (e.g., Head Start TA centers), as appropriate; and

(7) Increased capacity of SEAs and LAs to implement general supervision systems that support effective implementation of the IDEA, including meeting its requirements and improving educational results and functional outcomes for children with disabilities.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority. OSEP encourages innovative approaches to meet these requirements, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the current and emerging needs of SEAs and LAs to: support the development, implementation, and evaluation of an SSIP; identify existing State resources and align those resources with strategic objectives; appropriately select a set of coherent improvement strategies, based on thorough data analyses, that are aligned to current efforts to improve outcomes for all children; disseminate information on EBPs; provide effective TA on EBP implementation; meaningfully engage stakeholders; and ensure the effective implementation of the IDEA. To meet this requirement the applicant must—

(i) Demonstrate knowledge of current educational and early intervention issues and ongoing challenges to implementing the IDEA consistent with its statutory and regulatory provisions and improving educational results and functional outcomes for children with disabilities; and

(ii) Present information and data about the current capacity of SEAs and LAs to support systemic change, and how the Center will address the weaknesses and enhance the strengths within SEAs and LAs to build capacity in local agencies to implement, scale-up, and sustain State-level initiatives and EBPs that will lead to improved educational results and functional outcomes for children with disabilities.

(2) Improve SEA and LA infrastructure (e.g., align governance, fiscal systems and resources, quality standards, professional development, data, TA, and accountability/monitoring, share data to inform needed improvement) and increase capacity to ensure implementation of the IDEA and the SSIP.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Assist SEAs and LAs to ensure equal access to TA products and services for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that TA services and products are accessible to the stakeholders served by the intended recipients (e.g., by creating materials in formats and languages accessible to the stakeholders served by the intended recipients and inclusive of culturally responsive principles).

(2) Achieve the goals, objectives, and intended outcomes in the application. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes.

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on the effectiveness of systems change, capacity-building, and program evaluation that will inform the TA and related evidence-based improvement strategies;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its TA products and services.

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify, use, and expand the knowledge base on—

(A) The coordination and functioning of SEA and LA infrastructure to drive better outcomes for children with disabilities;

(B) Supporting States in developing, implementing, and evaluating an SSIP;

(C) Effective State dissemination strategies to ensure access to and adoption of EBPs by LEAs and EIS programs; and

(D) Meaningful engagement of stakeholders to solve complex educational and early intervention problems and support implementation of the IDEA and the use of EBPs at the local level;

(ii) Its proposed approach to universal, general TA,[5] which must identify the intended recipients of the products and services under this approach, and include the dissemination plan for ensuring that SEAs, LAs, and other relevant TA centers can access and use products and services developed by the proposed project;

(iii) Its proposed approach to targeted, specialized TA,[6] which must, at a minimum, offer targeted TA to States with a ''Needs Assistance'' determination and identify—

(A) The intended recipients of the products and services under this approach;

(B) The process the proposed project will use to identify common areas of required TA for a number of SEAs and LAs (e.g., challenges presented by rural versus urban settings, structure of LA service delivery, early childhood transition, postsecondary transition, or disproportionality or other areas) that lend themselves to targeted TA; and

(C) The process by which the proposed project will collaborate with other relevant TA centers to develop and implement targeted TA strategies in order to reduce duplication of efforts

[5] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[6] ''Targeted, specialized TA'' means TA service based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

and extend the reach of current TA providers; and

(iv) Its proposed approach to intensive, sustained TA,[7] which must, at a minimum, offer intensive TA to States with a ''Needs Intervention'' determination and identify—

(A) The intended recipients of the products and services under this approach, including considerations used to determine which States without a ''Needs Intervention'' determination, if any, will receive this level of TA, including how the project will improve States' readiness for the proposed project, if necessary, in SEAs and LAs that require intensive TA;

(B) Its proposed plan for assisting SEAs and LAs to build or enhance their TA systems to include evidence-based professional development practices and coaching;

(C) Its proposed plan for working with appropriate levels of the education and early intervention system (e.g., regional TA providers, SEAs, LEAs, schools, LAs, EIS programs and providers, and families) to ensure that there is communication between each level and that there are systems in place to support the sustained use of EBPs; and

(D) The process by which the proposed project will collaborate with other relevant TA centers to develop and implement intensive TA strategies in order to reduce duplication of efforts and extend the reach of current TA providers.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project as described in the following paragraphs. In order to assess the effectiveness of the project's activities, the evaluation plan must describe measures of progress in implementation, including the extent to which the project's products and services have reached its target population, and measures of intended outcomes or results of the project's activities.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officers, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[8] the project director, and the OSEP project officers on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (e.g., preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of effectiveness, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officers, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's APR;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) In the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives (taking into consideration race, color, national origin, gender, age, or disability, as appropriate), including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

[7] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

[8] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

(1) Include in Appendix A a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589;*

(2) Include in Appendix A a conceptual framework for the project;

(3) Include in Appendix A person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include in the budget attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officers and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officers and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two, two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include in the budget a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officers, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

References:

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Le Floch, K.C., Boyle, A., & Therriault, S.B. (2008). Help wanted: State capacity for school improvement. Washington, DC: American Institutes for Research.

National Governors Association, Center for Best Practices. (2010). Building ready states: A governors guide to supporting a comprehensive, high-quality early childhood State system. Washington, DC: Author. Retrieved from *www.nga.org/files/live/sites/NGA/files/pdf/1010GOVSGUIDEEARLYCHILD.PDF.*

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Unger, C., Lane, B., Cutler, E., Lee, S., Whitney, J., Arruda, E., & Silva, M. (2008). *How can State education agencies support district improvement: A conversation amongst educational leaders, researchers, and policy actors.* Providence, RI: The Education Alliance at Brown University.

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Winton, P. (2006). The evidence-based practice movement and its effect on knowledge utilization. In V. Buysse & P. Wesley (Eds.). *Evidence-based practice in the early childhood field* (pp. 71–115). Washington, DC: Zero to Three.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $8,771,748.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $8,771,748 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register.**

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months with an optional additional 24 months based on performance. Applications must include plans for both the 36-month award and the 24-month extension.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326R.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 70 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirement does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirement does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: June 17, 2014.

Deadline for Transmittal of Applications: August 18, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive the intergovernmental review in order to make an award by the end of FY 2014.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS

number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Center for Systemic Improvement competition, CFDA number 84.326R, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Center for Systemic Improvement competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326R).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR**

FURTHER INFORMATION CONTACT in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Perry Williams, U.S. Department of Education, 400 Maryland Avenue SW., Room 4147, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326R), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326R), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group

for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. For purposes of this priority, the Center will use these measures, which focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Perry Williams, U.S. Department of Education, 400 Maryland Avenue SW., Room 4147, PCP, Washington, DC 20202–2600. Telephone: (202) 245–7575.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 12, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–14154 Filed 6–16–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Innovative Approaches to Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information

Innovative Approaches to Literacy (IAL) Program Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215G.

Dates:

Applications Available: June 17, 2014.

Deadline for Transmittal of Applications: July 17, 2014.

Deadline for Intergovernmental Review: September 15, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need local educational agencies (high-need LEAs, as defined in this notice)

and schools. The U.S. Department of Education (Department) intends to support innovative programs that promote early literacy for young children, motivate older children to read, and increase student achievement by using school libraries as partners to improve literacy, distributing free books to children and their families, and offering high-quality literacy activities.

Many schools and districts across the Nation do not have school libraries that deliver high-quality literacy programming to children and their families. Additionally, many schools do not have qualified library media specialists and library facilities. Where facilities do exist, they often lack adequate books and other materials and resources. In many communities, high-need children have limited access to appropriate age- and grade-level reading material in their homes.

The IAL program supports the implementation of high-quality plans for childhood literacy activities and book distribution efforts that are supported by evidence of strong theory (as defined in this notice).

Proposed projects under the IAL program, based on those plans, may include, among other things, activities that—

(a) Increase access to a wide range of literacy resources (either print or electronic) that prepare young children to read, and provide learning opportunities to all participating students;

(b) Provide high-quality childhood literacy activities with meaningful opportunities for parental engagement, including encouraging parents to read books often with their children in their early years of life and school, and teaching parents how to use literacy resources effectively;

(c) Strengthen literacy development across academic content areas by providing a wide range of literacy resources spanning a range of both complexity and content (including both literature and informational text) to effectively support reading and writing;

(d) Offer appropriate educational interventions for all readers with support from school libraries or national not-for-profit organizations;

(e) Foster collaboration and joint professional development opportunities for teachers, school leaders, and school library personnel with a focus on using literacy resources effectively to support reading and writing and academic achievement. For example, an approach to professional development within the IAL program might be collaboration between library and school personnel to plan subject-specific pedagogy that is differentiated based on each student's developmental level and is supported by universal design for learning (as defined in this notice), technology, and other educational strategies; and

(f) Provide resources to support literacy-rich academic and enrichment activities and services aligned with State college- and career-ready standards (as defined in this notice) and the comprehensive statewide literacy plan (as defined in this notice).

The IAL program is carried out under the legislative authority of the Fund for Improvement of Education (FIE), Title V, part D, subpart 1, sections 5411 through 5413 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7243–7243b). FIE supports nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and to help all children meet challenging State academic content and student academic achievement standards.

In accordance with the Senate report that accompanied the Consolidated Appropriations Act, 2014 (S. Rep. No. 113–71, at 173 (2013)), and subject to the submission of sufficient applications that meet the requirements of this notice, the Department will award no less than 50 percent of FY 2014 funds to applications from LEAs (on behalf of school libraries) for high-quality school library projects that increase access to a wide range of literacy resources (either print or electronic) and provide learning opportunities to all students.

Priorities

This competition includes one absolute priority and four competitive preference priorities. The Absolute Priority and Competitive Preference Priority 4 are from the notice of final priorities, requirement, and definitions published elsewhere in this issue of the **Federal Register**. Competitive Preference Priorities 1, 2, and 3 are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

High-Quality Plan for Innovative Approaches to Literacy That Include Book Distribution, Childhood Literacy Activities, or Both, and That Is Supported, at a Minimum, by Evidence of Strong Theory (as Defined in 34 CFR 77.1(c))

To meet this priority, applicants must submit a plan that is supported by evidence of strong theory, including a rationale for the proposed process, product, strategy, or practice and a corresponding logic model (as defined in 34 CFR 77.1(c)).

The applicant must submit a plan with the following information:

(a) a description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following—

(1) Promoting early literacy and preparing young children to read;

(2) developing and improving students' reading ability;

(3) motivating older children to read; and

(4) teaching children and students to read.

(b) the age or grade spans of children and students from birth through 12th grade to be served;

(c) a detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as evidence of strong theory); and

(d) (i) a description of how the proposed project is supported by strong theory; and

(ii) the corresponding logic model (as defined in 34 CFR 77.1(c)).

Competitive Preference Priorities: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we will award an additional 5 points to an application that meets either Competitive Preference Priority 1 or 4. We will award an additional 5 points to an application that meets Competitive Preference Priority 2 and an additional 5 points to an application that meets Competitive Preference Priority 3. The maximum number of competitive preference points an application can receive for this competition is 15.

These priorities are:

Competitive Preference Priority 1—Turning Around Persistently Lowest-Achieving Schools (5 Points)

Under this priority, we give competitive preference to projects that are designed to address one or more of the following priority areas:

(a) Improving student achievement (as defined in this notice) in persistently lowest-achieving schools (as defined in this notice).

(b) Increasing graduation rates (as defined in this notice) and college enrollment rates for students in persistently lowest-achieving schools (as defined in this notice).

(c) Providing services to students enrolled in persistently lowest-achieving schools (as defined in this notice).

Note: For the purposes of this priority, the Department considers a school to be a ''persistently lowest-achieving school'' if it: (1) Meets the definition of a Tier I or Tier II school under the School Improvement Grants (SIG) program (see 75 FR 66363), or (2) for States that have received approval of their ESEA Flexibility requests, is a priority school identified by a State educational agency (SEA) in the SEA's most recent State SIG application for a new awards competition. The State SIG applications and a list of these schools can be found on the Department's Web site at *http://www2.ed.gov/programs/sif/index.html.*

Competitive Preference Priority 2—Technology (5 Points)

Under this priority, we give competitive preference to projects that are designed to improve student achievement (as defined in this notice) or teacher effectiveness through the use of high-quality digital tools or materials, which may include preparing teachers to use the technology to improve instruction, as well as developing, implementing, or evaluating digital tools or materials.

Competitive Preference Priority 3—Improving Early Learning Outcomes (5 Points)

Under this priority, we give competitive preference to projects that are designed to improve school readiness and success for high-need children (as defined in this notice) from birth through 3rd grade (or for any age group of high-need children within this range) through a focus on language and literacy development.

Competitive Preference Priority 4—Serving Rural LEAs (5 Points)

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a rural LEA (as defined in this notice).

Definitions: Some of the definitions in this notice are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486) and corrected on May 12, 2011 (76 FR 27637); those are identified at the end of the definition. The definitions of evidence of promise, logic model, preschool, and strong theory are from 34 CFR 77.1. Definitions without a citation are from the notice of final priorities, requirement, and definitions published elsewhere in this issue of the **Federal Register**.

College- and career-ready standards means content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State's college- and career-ready standards must be either (1) standards that are common to a significant number of States; or (2) standards that are approved by a State network of institutions of higher education, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.

Comprehensive statewide literacy plan means a plan (which may be a component or modification of the plan submitted under the Striving Readers Comprehensive Literacy formula grant program, CFDA 84.371B) that addresses the literacy and language needs of children from birth through 12th grade, including English learners and students with disabilities; aligns literacy policies, resources, and practices; contains clear instructional goals; and sets high expectations for all students and student subgroups.

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the conditions in paragraphs (i) and (ii) of this section are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental study that meets the What Works Clearinghouse Evidence Standards with reservations;[1] or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.[2]

(ii) The study referenced in paragraph (a) found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger), favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. (34 CFR 77.1(c))

Graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under Title I of the ESEA. (76 FR 27640)

High-need children and high-need students means children and students at risk of educational failure, such as children and students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities. (76 FR 27640)

High-need local educational agency (High-need LEA) means—

(i) Except for LEAs referenced in paragraph (ii), an LEA in which at least 25 percent of the students aged 5–17 in the school attendance area of the LEA are from families with incomes below the poverty line, based on data from the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list).

(ii) For an LEA that is not included on the Census list, such as a charter school LEA, an LEA for which the State educational agency (SEA) determines, consistent with the manner described under section 1124(c) of the ESEA in which the SEA determines an LEA's

[1] *What Works Clearinghouse Procedures and Standards Handbook* (Version 3.0, March 2014), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[2] *What Works Clearinghouse Procedures and Standards Handbook* (Version 3.0, March 2014), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

eligibility for Title I allocations, that 25 percent of the students aged 5–17 in the LEA are from families with incomes below the poverty line.

Note: The Census list is posted on the Department's Web site at: *http://www2.ed.gov/programs/ial/eligibility.html.*

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally. (34 CFR 77.1(c))

National not-for-profit (NNP) organization means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities.

Note: A local affiliate of an NNP does not meet the definition of NNP. Only a national agency, organization, or institution is eligible to apply as an NNP.

Persistently lowest-achieving schools means, as determined by the State: (i) Any Title I school in improvement, corrective action, or restructuring that (a) is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) any secondary school that is eligible for, but does not receive, Title I funds that: (a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the persistently lowest-achieving schools, a State must take into account both: (i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) the school's lack of progress on those assessments over a number of years in the ''all students'' group. (76 FR 27640)

Preschool means the educational level from a child's birth to the time at which the State provides elementary education. (34 CFR 77.1)

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program (SRSA) or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA at the time of application.

Note: Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at: *http://www2.ed.gov/nclb/freedom/local/reap.html.*

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model. (34 CFR 77.1(c))

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools. (76 FR 27641)

Universal design for learning (UDL) means a scientifically valid framework for guiding educational practice that (i) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and (ii) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are English learners.

Program Authority: 20 U.S.C. 7243–7243b.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637). (d) The notice of final priorities, requirement, and definitions published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $24,341,646.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Estimated Range of Awards to LEAs and Consortia of LEAs: $150,000 to $750,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 30.

Estimated Range of Awards to NNPs, Consortia of NNPs, and Consortia of NNPs and LEAs: $3,000,000 to $14,000,000.

Estimated Average Size of Awards: $4,500,000.

Estimated Number of Awards: 1–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* To be considered for an award under this competition, an applicant must:

(a) Be one of the following:

(1) A high-need LEA (as defined in this notice);

(2) An NNP (as defined in this notice) that serves children and students within the attendance boundaries of one or more high-need LEAs;

(3) A consortium of NNPs that serves children and students within the attendance boundaries of one or more high-need LEAs;

(4) A consortium of high-need LEAs; or

(5) A consortium of one or more high-need LEAs and one or more NNPs that serve children and students within the attendance boundaries of one or more high-need LEAs.

(b) Coordinate with school libraries in developing project proposals.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or by requesting a copy from the program office. To obtain a copy via the Internet, use the following address: *http://www2.ed.gov/programs/innovapproaches-literacy/applicant.html.* To obtain a copy from the program office, write, call, or send an email to the following person: Melvin Graham, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E334, Washington, DC 20202–6200. Telephone: (202) 260–8268 or by email: *melvin.graham@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the persons listed under *Accessible Format* in section VIII of this notice.

2.a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will be not accepted.

The page limit does not apply to the cover sheet; eligibility information; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the logic model, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

Note: The applicant should include, as an attachment, the logic model used to address paragraph (d)(ii) of the Absolute Priority.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the IAL program, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: June 17, 2014.

Deadline for Transmittal of Applications: July 17, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 15, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available through Grants.gov and before you can submit an application in Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain

that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:*

Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Innovative Approaches to Literacy Program, CFDA number 84.215G, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the IAL program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.215, not 84.215G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a

determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Melvin Graham, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E334, Washington, DC 20202–6200. Telephone: (202) 260–8268 or by email: *melvin.graham@ed.gov.*

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215G), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215G), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the following paragraphs. The maximum score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses.

(a) *Significance* (10 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (5 points)

(ii) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies. (5 points)

(b) *Quality of the project design* (20 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (5 points)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (5 points)

(iii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students. (5 points)

(iv) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project. (5 points)

(c) *Quality of project services* (25 points). The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the following factors:

(i) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (10 points)

(ii) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (10 points)

(iii) The extent to which the training or professional development services to

be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.(5 points)

(d) *Adequacy of resources* (10 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.
(5 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.
(5 points)

(e) *Quality of the management plan* (20 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

(ii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (5 points)

(f) *Quality of the project evaluation* (15 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation will, if well-implemented, produce evidence of promise (as defined). (10 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

The Secretary reserves the right to fund a sufficient number of high-quality literacy and book distribution projects to ensure that no less than 50 percent of IAL funds go to applications from LEAs (on behalf of school libraries).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for measuring the overall effectiveness of the IAL program. (1) The percentage of four-year-old children participating in the project who achieve significant gains in oral language skills. (2) The percentage of participating 3rd-grade students who meet or exceed proficiency on State reading or language arts assessments under section 1111(b)(3) of the ESEA. (3) The percentage of participating 8th-grade students who meet or exceed proficiency on State reading or language arts assessments under section 1111(b)(3) of the ESEA. (4) The percentage of participating high school students who meet or exceed proficiency on State reading or language arts assessments under section 1111(b)(3) of the ESEA.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project. For example, a grantee that proposes to improve the quality of school library services for high school students would only be required to report data for measure 4.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws

that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Melvin Graham, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E334, Washington, DC 20202–6200. Telephone: (202) 260–8268 or by email: *melvin.graham@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 11, 2014.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–14050 Filed 6–16–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–264–C]

Application To Export Electric Energy; ENMAX Energy Marketing Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: ENMAX Energy Marketing Inc. (ENMAX) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 17, 2014.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov*, or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. §§ 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C.§ 824a(e)).

On May 19, 2009, DOE issued Order No. EA–264–B to ENMAX, which authorized ENMAX to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expired on May 19, 2014. On May 21, 2014, ENMAX filed an application with DOE for renewal of the export authority contained in Order No. EA–264–B for an additional five-year term.

In its application, ENMAX states that it does not own any electric generating or transmission facilities, and it does not have a franchised service area. The existing international transmission facilities to be utilized by ENMAX have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the ENMAX application to export electric energy to Canada should be clearly marked with OE Docket No. EA–264–C. An additional copy is to be provided directly to Don Crippen, ENMAX Corporation, 141—50 Avenue SE., Calgary, AB Canada T2G 4S7.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845*, or by emailing Angela Troy at *Angela.Troy@hq.doe.gov*.

Issued in Washington, DC, on June 11, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and, Energy Reliability.

[FR Doc. 2014–14131 Filed 6–16–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–401]

Application To Export Electric Energy; Frontera Generation Limited Partnership and Lonestar Power Marketing LLC for Transfer of Authorization

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Frontera Generation Limited Partnership (Frontera) and Lonestar Power Marketing LLC (Lonestar) have jointly applied to transfer, from Frontera to Lonestar, the authority to transmit electric energy from the United States to Mexico, pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 17, 2014.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because

of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov*, or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On May 22, 2014, Frontera and Lonestar applied to transfer Frontera's existing authority to transmit electric energy from the United States to Mexico, using the electric transmission facilities authorized in Presidential permit PP–206, to Lonestar. DOE's regulations do not permit the voluntary transfer of export authority, but instead require a joint application to rescind the existing authorization and to issue a new authorization in the name of the transferee. DOE will consider this a joint application for a new authorization in the name of Lonestar. Lonestar is requesting expedited treatment of this application and issuance of an Order within 60 days.

In its application, Lonestar states that it does not own any electric generating or transmission facilities, and it does not have a franchised service area. The electric energy that Lonestar proposes to export to Mexico would be energy generated at the Frontera Generation Station. The existing international transmission facilities that Lonestar proposes to use for export have previously been authorized by Presidential permit PP–206, issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Lonestar application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–401. An additional copy is to be provided directly to Thomas Favinger, Chief Executive Officer, Lonestar Power Marketing LLC, c/o The Blackstone Group L.P., 345 Park Avenue, New York, NY 10154 and to Brooksany Barrowes, Baker Botts L.L.P., 1299 Pennsylvania Ave. NW., Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available by request to the addresses provided above or by accessing the program Web site at *http://energy.gov/node/11845*.

Issued in Washington, DC, on June 11, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and, Energy Reliability.

[FR Doc. 2014–14128 Filed 6–16–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of Meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on June 24 and June 25, 2014, at the headquarters of the IEA in Paris, France in connection with a meeting of the IEA's Standing Group on Emergency Questions (SEQ) on the same days, and on June 26, 2014, in connection with a joint meeting of the SEQ and the IEA's Standing Group on the Oil Market (SOM) on that day.

DATES: June 24–26, 2014

ADDRESS: 9, rue de la Fédération, Paris, France

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–3417.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on June 24, 2014, commencing at 9:30 a.m. and continuing at 9:30 a.m. on June 25, 2014, and on June 26, 2014, commencing at 9:30 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) on June 24–25 at the same location commencing at 9:30 a.m. on both days, and at a joint meeting of the SEQ and the IEA's Standing Group on the Oil Markets (SOM) on June 26 at the same location commencing at 9:30 a.m.. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on June 25. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting. IAB representatives are also invited to participate in a meetng of the Emergency Response Exercise design group at 5:30 p.m. on June 25.

The agenda of the SEQ meetings on June 24 and June 25 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 141st Meeting
3. Status of Compliance With IEP Stockholding Commitments
4. Emergency Response Review Program
5. Emergency Response Review of Belgium
6. Mid-Term Emergency Response Review of France
7. Emergency Response Exercise 7 Update
8. Outreach
   —Update on Association
   —Colombia
   —China
9. Program of Work
10. Emergency Response Exercise 7 Delegates-only Exercise
    —Welcome
    —Scenario 1 (Oil)—Introduction
    —Breakout Groups
    —Plenary for Scenario 1
    —Scenario 2 (Gas)—Introduction and Plenary Discussion
11. Energy Supply Security Publication
12. Saving Oil in a Hurry
13. Indonesian Emergency Response Assessment
14. Mid-Term Emergency Response Review of Switzerland
15. Asia Pacific Energy Research Center (APERC)
16. Emergency Response Review of Ireland

17. Mid-Term Emergency Response Assessment of Chile
18. Industry Advisory Board Update
19. Oral Reports by Administrations
20. G7 and G20 Energy Meetings
21. Other Business
—Tentative schedule of next meetings
—October 21–23, 2014
—November 2014 (ERE7)

The agenda of the joint meeting of the SEQ and the SOM on June 26 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the March 20, 2014, Joint Session
3. Reports on Recent Oil Market and Policy Developments in IEA Countries
4. Update on OIM Projects and Priorities
5. The Current Oil Market Situation
6. The Ukraine-Russia Standoff and the Natural Gas Market
7. Renewable Market Update
8. The Changing Supply Environment of Escalating Production Costs
9. Mid-Term Oil Market Report Insights
10. Key Messages From the Medium-Term Gas Market Report
11. Other Business
—Tentative schedule of upcoming SEQ and SOM meetings:
—October 21–23, 2014

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, June 11, 2014.

Diana D. Clark,

Assistant General Counsel, for International and National Security Programs.

[FR Doc. 2014–14126 Filed 6–16–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will provide DOE with the information necessary to meet its statutory and regulatory obligations under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and the DOE NEPA implementing regulations, which requires EERE to perform environmental impact analyses prior to making a decision to provide Federal funding for research, development and demonstration projects funded by DOE.

DATES: Comments regarding this collection must be received on or before July 17, 2014. If you anticipate difficulty in submitting comments within that period, contact the **DOE Desk Officer at OMB** of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to:

DOE Desk Officer at Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to:

Lisa Jorgensen at U.S. Department of Energy, 15013 Denver West Parkway, Golden, CO 80401, by fax at **(720–356–1790)**, or by email at *EEREQComments@go.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the EERE Environmental Questionnaire should be directed to Lisa Jorgensen at *EEREQComments@go.doe.gov.* The EERE Environmental Questionnaire also is available for viewing in the Golden Field Office Public Reading Room at: *http://www.eere.energy.gov/golden/Reading_Room.aspx.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) OMB No. New;

(2) Information Collection Request Title: Office of Energy Efficiency and Renewable Energy (EERE) Environmental Questionnaire;

(3) Type of Request: New;

(4) Purpose: The DOE's EERE provides federal funding through federal assistance programs to businesses, industries, universities, and other groups for renewable energy and energy efficiency research and development and demonstration projects. The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires that an environmental analysis be completed for all major federal actions significantly affecting the environment including projects entirely or partly financed by federal agencies. To effectively perform environmental analyses for these projects, the DOE's EERE needs to collect project-specific information from federal financial assistance awardees. DOE's EERE has developed its Environmental Questionnaire to obtain the required information and ensure that its decision-making processes are consistent with NEPA as it relates to renewable energy and energy efficiency research and development and demonstration projects;

(5) Annual Estimated Number of Total Responses: 300;

(6) Average Hours per Response: .5; and

(7) Annual Estimated Number of Burden Hours: 150.

Statutory Authority: National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*).

Issued in Golden, CO on June 10, 2014.

Robin L. Sweeney,

Environmental Oversight Office, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2014–14127 Filed 6–16–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–497–000 -000]

Notice of Application; Dominion Transmission, Inc.

Take notice that on June 2, 2014, Dominion Transmission, Inc. (DTI), 120 Tredigar Street, Richmond, Virginia, filed with the Federal Energy Regulatory Commission an application under Section 7(c) of the Natural Gas Act (NGA) to construct, install, own, operate and maintain certain compression facilities that comprise the New Market Project located in Chemung, Herkimer, Madison, Montgomery, Schenectady, and Tompkins Counties, New York, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

This filing is accessible on-line at *http://www.ferc.gov*, using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions regarding this Application should be directed to Matthew R. Bley, Manager, Gas Transmission Certificates, Dominion Transmission, Inc., 701 East Cary Street, Richmond, VA 23219, telephone no. (804) 771–4399, facsimile no. (804) 771–4804 and email: *Matthew.R.Bley@dom.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Daylight Savings Time on July 2, 2014.

Dated: June 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14139 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1037–000.
Applicants: Empire Pipeline, Inc.
Description: Negotiated Rate & Non-conforming (Sithe/Independence) to be effective 6/5/2014.
Filed Date: 6/5/14.
Accession Number: 20140605–5062.
Comments Due: 5 p.m. ET 6/17/14.

Docket Numbers: RP14–1038–000.
Applicants: Alliance Pipeline L.P.
Description: June 7–30 2014 Auction to be effective 6/7/2014.
Filed Date: 6/5/14.
Accession Number: 20140605–5145.
Comments Due: 5 p.m. ET 6/17/14.

Docket Numbers: RP14–1039–000.
Applicants: Enable Gas Transmission, LLC.
Description: Negotiated Rate Filing—June 2014 LER 1010222 Att A to be effective 6/5/2014.
Filed Date: 6/5/14.
Accession Number: 20140605–5147.
Comments Due: 5 p.m. ET 6/17/14.

Docket Numbers: RP14–1040–000.
Applicants: Gulf Shore Energy Partners, LP.
Description: Gulf Shore Energy Partners—Negotiated Rate Filing to be effective 6/6/2014.
Filed Date: 6/6/14.
Accession Number: 20140606–5074.
Comments Due: 5 p.m. ET 6/18/14.

Docket Numbers: RP14–1041–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Negotiated & Non-Conforming Agreements—ELEOP to be effective 5/1/2014.
Filed Date: 6/6/14.
Accession Number: 20140606–5105.
Comments Due: 5 p.m. ET 6/18/14.

Docket Numbers: RP14–408–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Whiting Redtail Lateral in service on 2–10–2014.
Filed Date: 6/6/14.
Accession Number: 20140606–5185.
Comments Due: 5 p.m. ET 6/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings

must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 09, 2014,

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14072 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1470–001.
Applicants: Midcontinent Independent System Operator Inc., Ameren Illinois Company.
Description: 2014–06–09_Ameren-White Oak Facilities Service Agreement Compliance Filing to be effective 5/11/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5108.
Comments Due: 5 p.m. ET 6/30/14.

Docket Numbers: ER14–2155–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position Y1–069, Original Service Agreement No. 3876 to be effective 5/9/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5168.
Comments Due: 5 p.m. ET 6/30/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR14–4–000.
Applicants: North American Electric Reliability Corp.
Description: North American Electric Reliability Corporation's Report of Comparisons of Budgeted to Actual Costs for 2013 for NERC and the Regional Entities.
Filed Date: 5/30/14.
Accession Number: 20140530–5371.
Comments Due: 5 p.m. ET 6/30/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14136 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–100–000.
Applicants: Beech Ridge Energy LLC, Beech Ridge Energy II LLC, Beech Ridge Energy Storage LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, Bishop Hill Interconnection LLC, Forward Energy LLC, California Ridge Wind Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Grand Ridge Energy Storage LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Invenergy TN LLC, Judith Gap Energy LLC, Sheldon Energy LLC, Spring Canyon Energy LLC, Spring Canyon Energy II LLC, Spring Canyon Energy III LLC, Spring Canyon Interconnection LLC, Stony Creek Energy LLC, Vantage Wind Energy LLC, Willow Creek Energy LLC, Wolverine Creek Energy LLC, Wolverine Creek Goshen Interconnection LLC, Prairie Breeze Wind Energy LLC.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Beech Ridge Energy LLC, et. al.
Filed Date: 6/6/14.
Accession Number: 20140606–5190.
Comments Due: 5 p.m. ET 6/27/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3731–006.
Applicants: LWP Lessee, LLC.
Description: Notice of Non-Material Change in Status of LWP Lessee, LLC.
Filed Date: 6/9/14.
Accession Number: 20140609–5074.
Comments Due: 5 p.m. ET 6/30/14.

Docket Numbers: ER14–1477–001.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: ORTP Compliance Filing to be effective 5/13/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5037.
Comments Due: 5 p.m. ET 6/30/14.

Docket Numbers: ER14–2151–000.
Applicants: Wisconsin Public Service Corporation.
Description: WPSC Distribution Wheeling Service Agreement with MSCPA to be effective 1/1/2014.
Filed Date: 6/6/14.
Accession Number: 20140606–5150.
Comments Due: 5 p.m. ET 6/27/14.

Docket Numbers: ER14–2152–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original Service Agreement No. 3792 to be effective 4/30/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5000.
Comments Due: 5 p.m. ET 6/30/14.

Docket Numbers: ER14–2153–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: Demand Curve Revisions to be effective 9/1/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5067.
Comments Due: 5 p.m. ET 6/30/14.

Docket Numbers: ER14–2154–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–06–09_Rochester Public Utilites Add to Pricing Zone 20 to be effective 12/1/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5129.
Comments Due: 5 p.m. ET 6/30/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR14–3–000.
Applicants: North American Electric Reliability Corp.
Description: North American Electric Reliability Corporation Petition for Approval of the Amendments to Exhibit B of the Amended and Restated Delegation Agreement with SERC Reliability Corporation—the SERC Bylaws.

Filed Date: 6/6/14.
Accession Number: 20140606–5195.
Comments Due: 5 p.m. ET 6/27/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14071 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1042–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Non-Conforming Agreement Filing (City of Mesa) to be effective 7/9/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5128.
Comments Due: 5 p.m. ET 6/23/14.

Docket Numbers: RP14–1043–000.
Applicants: Northern Natural Gas Company.
Description: 20140609 Negotiated Rate to be effective 6/10/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5171.
Comments Due: 5 p.m. ET 6/23/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1031–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Fuel Retention and Cash-Out Adjustment to be effective 7/1/2014.
Filed Date: 6/9/14.
Accession Number: 20140609–5154.
Comments Due: 5 p.m. ET 6/23/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR § 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14073 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–66–000]

E.ON Climate & Renewables North America LLC; Pioneer Trail Wind Farm, LLC; Settlers Trail Wind Farm, LLC v. Northern Indiana Public Service Company; Notice of Complaint

Take notice that on June 10, 2014, pursuant to sections 206 and 306 of the Federal Power Act, 16 USC 824e, 825e, and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, E.ON Climate & Renewables North America LLC, Pioneer Trail Wind Farm, LLC, and Settlers Trail Wind Farm, LLC (Complainants) filed a complaint against Northern Indiana Public Service Company (NIPSCO). The Complainants allege that the ''Multiplier'' provisions contained in two Transmission Upgrade Agreements (TUAs) between the Complainants and NIPSCO are unjust, unreasonable, and unduly discriminatory. The Complainants request that the Commission find that the Multiplier provision of the TUAs is unjust and unreasonable and unduly discriminatory, and that the Commission direct NIPSCO to remove the Multiplier from the TUAs at the earliest possible effective date. In the alternative, Complainants allege that the Commission should review the individual cost components comprising the Multiplier, including rate of return, depreciation expense, and operation and maintenance expense, and authorize NIPSCO to recover through the Multiplier only those costs that it is able to show that it actually incurs.

The Complainants certify that copies of the complaint were served on the contacts for NIPSCO as listed on the Commission's list of Corporate Officials in accordance with Rule 206(c), 18 CFR 385.206(c).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 30, 2014.

Dated: June 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14140 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2809–030]

KEI (Maine) Power Management (III) LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. Type of Filing: Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. Project No.: 2809–030.

c. Date Filed: April 30, 2014.

d. Submitted By: KEI (Maine) Power Management (III) LLC.

e. Name of Project: American Tissue Hydroelectric Project.

f. Location: On the Cobbosseecontee Stream, in Kennebec County, Maine. No federal lands are occupied by the project works or located within the project boundary.

g. Filed Pursuant to: 18 CFR 5.3 of the Commission's regulations.

h. Potential Applicant Contact: Lewis Loon, KEI (Maine) Power Management (III) LLC, 37 Alfred Plourde Parkway Suite 2, Lewiston, ME 04240; (207) 786–8834; email—*Lewis.Loon@kruger.com.*

i. FERC Contact: John Baummer at (202) 502–6837; or email at *john.baummer@ferc.gov.*

j. KEI (Maine) Power Management (III) LLC filed its request to use the Traditional Licensing Process on April 30, 2014. KEI (Maine) Power Management (III) LLC provided public notice of its request on May 27, 2014. In a letter dated June 10, 2014, the Director of the Division of Hydropower Licensing approved KEI (Maine) Power Management (III) LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Maine State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating KEI (Maine) Power Management (III) LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. KEI (Maine) Power Management (III) LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No.2809–030. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2017.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14074 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13272–004]

Alaska Village Electric Cooperative, Inc.; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Minor Original License.

b. Project No.: 13272–004.

c. Date filed: November 1, 2013.

d. Applicant: Alaska Village Electric Cooperative, Inc (AVEC).

e. Name of Project: Old Harbor Hydroelectric Project.

f. Location: The project would be constructed on the East Fork of Mountain Creek, near the town of Old Harbor, Kodiak Island Borough, Alaska. Some project facilities would be located on approximately 7.74 acres of federal lands of the Kodiak National Wildlife Refuge.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Meera Kohler, President and CEO, AVEC, 4831 Eagle Street, Anchorage, AK 99503; Telephone (907) 561–1818.

i. FERC Contact: Adam Beeco, Telephone (202) 502–8655, and email *adam.beeco@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866)

208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13272–004.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The proposed run-of-river project would consist of an intake, penstock, powerhouse, tailrace and constructed channel, access road and trail, and transmission line. Power from this project would be used by the residents of the city of Old Harbor.

Intake

The intake would consist of a concrete, or other suitable material, diversion/cut off weir with integral spillway that would divert water from the East Fork of Mountain Creek. The weir would range in height from approximately 4 feet at the spillway to 6 feet elsewhere and would span approximately 100 feet across the creek floodplain. A below grade transition with an above-ground air relief inlet pipe would convey water to a buried high-density polyethylene pipe and steel pipe penstock. Once constructed, the intake would fill to the level of the spillway and flow over the spillway when the water is higher.

Penstock

A 10,100-foot-long penstock consisting of an 18-inch-diameter polyethylene pipe, a 20-inch-diameter polyethylene pipe, and a 16-inch-diameter steel pipe would be installed. A total of 7,400 feet of polyethylene would be installed from the intake and 2,750 feet of steel pipe would be installed near the powerhouse. The entire pipe would be buried one to five feet underground.

Powerhouse

The powerhouse would consist of an approximately 30-foot by 35-foot by 16-foot high metal building or similar structure. The building would house two 262-kW Pelton turbines, a 480-volt, three-phase synchronous generator, and switchgear for each turbine.

Tailrace

The tailrace would be constructed with approximately 85 feet of steel, plastic, or concrete culvert. A man-made stream channel with a length of approximately 2,300 feet including approximately 500 feet would convey the project flows approximately 0.1 mile from the powerhouse to the nearby pond, known as Swimming Pond. The tailrace water would then travel 500 feet within Swimming Pond. The tailrace would continue on from Swimming Pond approximately 0.2 miles within an enhanced channel of Lagoon Creek Tributary. This enhanced channel would be constructed in place of the existing ephemeral section of Lagoon Creek Tributary. This section is approximately 1,100 feet and ends in a groundwater upwelling where Lagoon Creek Tributary becomes a distinct natural channel. Lagoon Creek Tributary flows into Lagoon Creek which then empties into a large, tidally influenced lagoon called Salt Lagoon. Salt Lagoon occupies about 82 acres and drains through a culvert into the Sitkalidak Strait.

Access Road and Trail

An approximately 2.2-mile-long by 10-foot-wide project access trail would be constructed between the intake and the powerhouse and an approximately 5,720-foot-long by 24-foot-wide powerhouse access road would extend from powerhouse to the existing community drinking water tank access road. To prevent increased traffic in the Kodiak National Wildlife Refuge, the intake access trail would be closed to non-project vehicular traffic. The powerhouse access road, however, would be open to public vehicles and public foot access.

Transmission Line

A 1.2-mile-long, 12.47-kV, three-phase overhead power line would be installed from the powerhouse to the existing power distribution system in Old Harbor.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission would consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. Procedural Schedule:

The application would be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions	July 2014.
Commission issues draft EA	January 2015.
Comments on draft EA	March 2015.
Commission issues EA	August 2015.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

r. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits would not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Dated: June 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14075 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM10–12–011]

Electricity Market Transparency Provisions of Section 220 of the Federal Power Act; Notice of Request for Waiver

Take notice that on June 10, 2014, North Carolina Eastern Municipal Power Agency, pursuant to Paragraph 191 of Order No. 768 and Paragraph 32 of Order No. 768–A [1] filed a request for waiver of the requirement to file Electric Quarterly Reports established under section 35.10b of the Commission's regulations, 18 CFR 35.10b (2013).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 1, 2014.

Dated: June 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14141 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

[1] *Elec. Market Transparency Provisions of Sec. 220 of the Fed. Power Act,* Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g,* Order No. 768–A, 143 FERC ¶ 61,054 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–495–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on June 2, 2014, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed in Docket No. CP14–495–000, a prior notice request pursuant to sections 157.205, 157.208, 157.213, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA). Columbia seeks authorization to construct, modify, replace, and abandon natural gas storage facilities in its Rockport Storage Field, located in Wirt and Wood Counties, West Virginia. Columbia proposes to perform these activities under its blanket certificate issued in Docket No. CP83–76–000 [22 FERC ¶ 62,029 (1983)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Fredric J. George, Senior Counsel, Columbia Gas Transmission, LLC, P.O. Box 1273, Charleston, West Virginia, 25325–1273, or by calling (304) 357–2359 (telephone) or (304) 357–3206 (fax) *fgeorge@nisource.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the

day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: June 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14138 Filed 6–16–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

[EPA–HQ–OW–2013–0820; 9912–30–OW]

Reopening of Comment Period for the Notice of Availability Regarding the Exemption From Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices

AGENCIES: Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps), Department of the Army, Department of Defense.

ACTION: Notice of availability; reopening the comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) are reopening the comment period for a notice published on April 21, 2014. The notice of availability was for an interpretive rule to address the exemption from permitting provided under section 404(f)(1)(A) of the Clean Water Act (CWA) for discharges of dredged or fill material associated with certain agricultural conservation practices based on the Natural Resources Conservation Service (NRCS) conservation practice standards that are designed and implemented to protect and enhance water quality. While the interpretive rule is already in effect, the agencies recognize the importance and value of receiving public input on the implementation of this interpretive rule. EPA and the Corps are reopening the comment period in response to stakeholder requests. Comments submitted between the close of the original comment period and the re-opening of this comment period will be accepted and considered.

DATES: The comment period for the interpretive rule, the availability of which was published on April 21, 2014 (79 FR 22276), is reopened through July 7, 2014. Comments must be received on or before July 7, 2014. The comment period was originally scheduled to end on June 5, 2014.

ADDRESSES: Submit your comments, identified by Docket identification (ID) No. EPA–HQ–OW–2013–0820, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: ow-docket@epa.gov.*
- *Mail:* Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention: Docket ID No. EPA–HQ–OW–2013–0820.
- *Hand Delivery:* EPA Docket Center, EPA West Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention: Docket ID No. EPA–HQ–OW–2013–0820. Such deliveries are only accepted during the Docket Center's normal hours of operation. Special arrangements should be made for deliveries of boxed information by calling 202–566–2426.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2013–0820. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disc you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although

listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Water Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744; the telephone number for the Office of Water Docket Center is (202) 566–2426. EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2013–0820. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Water Docket, EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, Monday through Friday, excluding legal holidays. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

FOR FURTHER INFORMATION CONTACT: Ms. Damaris Christensen, Office of Water (4502–T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number 202–566–2442; email address: *Wetlands-HQ@epa.gov* or Mr. Chip Smith, Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Washington, DC 22310; telephone number 703–697–4672; *USACE_CWA_RULE@usace.army.mil* or Ms. Stacey Jensen, Regulatory Community of Practice (CECW–CO–R), U.S. Army Corps of Engineers, 441 G Street NW., Washington, DC 20314; telephone number 202–761–5856; email address: *USACE_CWA_RULE@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

The interpretive rule, as well as a list of NRCS practices that meet the exemption, are available on the *http://www.regulations.gov* docket for EPA–HQ–OW–2013–0820 or via the Internet on the EPA Web site: *http://water.epa.gov/lawsregs/guidance/wetlands/agriculture.cfm.*

Dated: June 9, 2014.

Nancy K. Stoner,

Acting Assistant Administrator for Water, Environmental Protection Agency.

Dated: June 9, 2014.

Jo-Ellen Darcy,

Assistant Secretary of the Army (Civil Works), Department of the Army.

[FR Doc. 2014–14107 Filed 6–13–14; 4:15 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9912–28–Region–6]

Clean Water Act Section 303(d): Withdrawal of One Total Maximum Daily Load

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Withdrawal of One Total Maximum Daily Load.

SUMMARY: The U.S. Environmental Protection Agency (EPA) hereby issues notice of the withdrawal of one Total Maximum Daily Load (TMDL) for lead, as found in the document titled ''TMDLs for Lead and Siltation/Turbidity for Big Creek near Sheridan, Arkansas.'' The TMDL was established by the EPA in March of 2008. This withdrawal action will not affect the TMDLs for Siltation/Turbidity established in the same TMDL document.

The lead TMDL is being withdrawn in this unique circumstance based on uncertainty in the representativeness of the data associated with the original listing for lead in Big Creek near Sheridan (reach 08040203–904) and, therefore, the questionable need for the TMDL.

SUPPLEMENTARY INFORMATION: The TMDLs were developed under EPA Contract Number 68–C–02–108. The **Federal Register** (FR) notice of availability, seeking public comments on the draft TMDLs, was published on December 17, 2007 (72 FR 71409). Public comments were received by January 16, 2008, and a response to each comment was provided. The FR notice of availability for the final TMDLs was published on August 14, 2008 (see 73 FR 47596). The FR notice seeking public comments on the proposed withdrawal for the lead TMDL for reach 08040203–904 was published on April 21, 2014. The comment period ended on May 21, 2014, and the EPA did not receive any adverse comments relating to the proposed withdrawal action.

FOR FURTHER INFORMATION CONTACT: Evelyn Rosborough, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–7515.

Dated: June 5, 2014.

William K. Honker,

Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 2014–14118 Filed 6–16–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 14–249]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice; Correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** on March 19, 2014, regarding a notice of suspension concerning Mr. Bryan J. Cahoon. The document contained the incorrect summary, dates, and supplementary information sections.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, 202–418–1697.

Correction

In the **Federal Register** at 79 FR 15339, March 19, 2014, on page 15339, in the third column, and also on page 15340, the first column, to correct the ''Summary'', the ''Dates'' and the ''Supplementary Information'' captions to read:

SUMMARY: The Enforcement Bureau (the ''Bureau'') gives notice of Mr. Bryan J. Cahoon's suspension from the schools and libraries universal service support mechanism (or ''E-Rate Program''). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Cahoon, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be received within 30 days from receipt of the suspension letter or July 17, 2014, whichever date comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 14–249, which was mailed to Mr. Cahoon and released on February 24, 2014. The complete text of the notice of suspension and commencement of proposed debarment proceedings is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via email *http://www.bcpiweb.com.*

Federal Communications Commission.

Theresa Z. Cavanaugh,

Chief, Investigations and Hearings Division, Enforcement Bureau.

[FR Doc. 2014–14164 Filed 6–16–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 2, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Prairie Star Bancshares, Inc. Revocable Trust, Michael S. Adams, trustee,* Overland Park, Kansas; to acquire voting shares of Prairie Star Bancshares, Inc., and thereby indirectly acquire voting shares of Bank of the Prairie, both in Olathe, Kansas.

Board of Governors of the Federal Reserve System, June 12, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–14100 Filed 6–16–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0113; Docket 2014–0055; Sequence 6]

Federal Acquisition Regulation; Submission to OMB for Review; Acquisition of Helium

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning acquisition of helium. A notice was published in the **Federal Register** at 79 FR 18551 on April 2, 2014, no comments were received.

DATES: Submit comments on or before July 17, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0113, Acquisition of Helium, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0113. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0113, Acquisition of Helium'', Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0113, Acquisition of Helium'', on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0113, Acquisition of Helium.

Instructions: Please submit comments only and cite Information Collection 9000–0113, Acquisition of Helium, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Acquistion Policy Division, via telephone 202–501–1448 or via email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Helium Act (Pub. L. 86–777) (50 U.S.C. 167a, *et seq.*) and the Department of the Interior's implementing regulations (30 CFR parts 601 and 602) require Federal agencies to procure all major helium requirements from the Bureau of Land Management, Department of the Interior.

FAR 8.5, Acquisition of Helium, and the clause 52.208–8 Required Sources for Helium and Helium Usage Data, requires that the Contractor provide to the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier; (i) The name of the supplier; (ii) The amount of helium purchased; (iii) The delivery date(s); and (iv) the location where the helium was used. Such information will facilitate enforcement of the requirements of the Helium Act and the contractual provisions requiring the use of Government helium by agency contractors.

The information is used in administration of certain Federal contracts to ensure contractor compliance with contract clauses. Without the information, the required use of Government helium cannot be monitored and enforced effectively. The FAR requires that the contractor provide helium purchase information 10 days after delivery from a federal helium supplier, not for the contractor to forecast what they are going to purchase.

B. Annual Reporting Burden

In consultation with subject matter experts at the Department of the

Interior, Bureau of Land Management, Helium Operations, the number of responses per year was verified as being within an acceptable range, as was the average time required to read and prepare information which was estimated at 1 hour per response. This information collection will result in no change from what published in the **Federal Register** at 79 FR 18551 on April 2, 2014. No public comments were received that challenged the validity of the Government's estimate.

Respondents: 26.
Responses per Respondent: 1.
Total Responses: 26.
Hours per Response: 1.
Total Burden Hours: 26.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0113, Acquisition of Helium, in all correspondence.

Dated: June 12, 2014.

Karlos Morgan,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–14132 Filed 6–16–14; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice–WPD–2014–01; Docket No. 2014–0002; Sequence No. 24]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Potomac Hill Campus Master Plan

AGENCY: National Capital Region. U.S. General Services Administration (GSA).

ACTION: Notice of Environmental Impact Statement and public scoping meeting.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 United States Code [U.S.C.] 4321–4347; the Council on Environmental Quality Regulations (Code of Federal Regulations [CFR], Title 40, chapter V, parts 1500–1508); GSA Order PBS P 1095.1F (Environmental considerations in decision-making, dated October 19, 1999); and the GSA Public Buildings Service NEPA Desk Guide, dated October 1999, GSA plans to prepare an Environmental Impact Statement (EIS) for the Potomac Hill Campus Master Plan (PHCMP) at Potomac Hill in the Foggy Bottom neighborhood of Northwest Washington, DC. GSA will be initiating related consultation under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f) and 470(h–2), 36 CFR Part 800 [Protection of Historic Properties]) for the project.

DATES: The public scoping meeting will be held on Wednesday, July 9, 2014, from 4:00 p.m. to 7:30 p.m. eastern standard time, at St. Mary's Church at 728 23rd Street NW. in Washington, DC.

ADDRESSES: The public scoping meeting will be held at St. Mary's Church at 728 23rd Street, NW., in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Springer, NEPA Specialist, GSA, National Capital Region, at 202–260–3672. Also, please call this number if special assistance is needed to attend and participate in the scoping meeting.

SUPPLEMENTARY INFORMATION: The notice of intent is as follows:

Notice of Intent To Prepare an Environmental Impact Statement

GSA intends to prepare an EIS to analyze the potential impacts resulting from the PHCMP, which will guide the development of approximately 11.8 acres of Northwest DC property under the custody and control of GSA and occupied by the U.S. Department of State (DOS), bounded approximately by the E Street Expressway to the north; 23rd Street NW., to the east; Constitution Avenue to the South; and Interstate 66 access ramps to the west. The primary purpose of this action is to transform the properties historically known as ''Navy Hill'' and ''Potomac Annex'' into a unified federal campus that accommodates DOS's operations and security requirements and recognizes the site's historic character.

Background

The U.S. General Services Administration (GSA), in coordination with DOS, proposes the preparation of the PHCMP to guide future redevelopment—the Proposed Action.

The property consists of two adjoining federally owned historic parcels known as Navy Hill and Potomac Annex, in the Foggy Bottom neighborhood of Washington, DC. Together, these parcels constitute the site hereafter referred to as Potomac Hill.

Potomac Hill is an enclosed site, approximately 11.8 acres, located at 2300 E Street, NW. and bounded by 23rd Street NW. to the east, the southern access road within Potomac Annex, and the E Street Expressway (Potomac River Freeway) to the west and north. The site is immediately west of the DOS headquarters, the Harry S Truman building, at 2201 C Street NW.

GSA historically has controlled Navy Hill and its three buildings (South, Central, and East) were occupied by DOS. In 2012, GSA acquired custody and control of Potomac Annex from the U.S. Department of the Navy (Navy) in order to accommodate additional DOS offices, as DOS does not have general authority to acquire real property in the United States. At this time the Potomac Annex buildings (Buildings 1–5) are undergoing renovation for use by DOS.

Purpose and Need

The purpose of the proposed PHCMP is to provide GSA and DOS with a framework to guide the redevelopment of Potomac Hill into a unified federal campus that accommodates DOS's operations and security requirements and recognizes the site's historic character.

The PHCMP is needed to meet DOS's long-term space needs in a manner consistent with provisions of the real property transfer from the Navy to GSA on behalf of DOS. By realigning its real estate portfolio and developing a Potomac Hill Campus, DOS can improve functional operations and accommodate increased space requirements while providing a secure workplace. DOS has determined that multiple operations in non-contiguous locations result in security challenges, increased travel time, decreased productivity, and administrative inefficiencies. DOS has thus identified a critical need to realign its real estate portfolio to meet continuing space and functional mission requirements, provide a more secure workplace, and improve functional operations.

Consolidation will move the agency out of multi-tenant leased locations into a centralized government facility near DOS headquarters, optimizing operations by more efficiently meeting

space requirements and concentrating security. In doing so, the PHCMP also supports Executive Order 13327, Federal Real Property Asset Management, enacted to ''promote the efficient and economical use of Federal real property resources.''

The PHCMP will use GSA's Design Excellence process and establish design and planning principles to guide the redevelopment, rehabilitation, and restoration efforts associated with existing and new buildings, access points and roadways, open/green space, utility systems, infrastructure, and other site elements in a sustainable way that is sensitive to the site's cultural legacy.

U.S. General Services Administration Mission and Role in the Project

GSA oversees the business of the United States government. The mission of GSA is to deliver the best value in real estate, acquisition, and technology services to government and the American people. Since DOS does not have any general authority to acquire real property in the United States, GSA acquired Potomac Annex to address the customer agency's need for additional federally owned office space proximate to its headquarters. The PHCMP will provide the GSA and DOS with a framework for future use of the site that serves DOS's long-term housing needs, taking into account GSA's standards for historically significant Federal Buildings.

U.S. Department of State Mission

''The core mission of the U.S. Department of State is to advance freedom for the benefit of the American people and the international community by helping to build and sustain a more democratic, secure, and prosperous world composed of well-governed states that respond to the needs of their people, reduce widespread poverty, and act responsibly within the international system.''

DOS missions and functions require a high degree of collaboration, as virtually all DOS organizations are vertically and horizontally integrated. Locational proximity among DOS bureaus improves the communications and collaboration essential to diplomacy and diplomatic success, enabling improved support to Regional and Functional bureaus, as well as to the 250-plus U.S. embassies and consulates around the world.

U.S. Department of State National Capital Region Consolidation Effort

DOS facilities are strategically located worldwide, with centralized functions housed in the District of Columbia (DC) metropolitan area. Increased diplomatic activity worldwide during the past decade has resulted in an increase in space needs for DOS in the National Capital Region. In 2014, the DOS real estate portfolio encompasses 63 buildings comprising 8 million rentable square feet (RSF). The largest concentration of DOS office space is 2 million RSF in DOS headquarters in Washington, DC, also known as the Harry S Truman Building (HST). DOS operations are primarily concentrated in HST and miscellaneous buildings in Foggy Bottom and Rosslyn, VA, including the East, South, and Central buildings at Navy Hill.

On behalf of DOS, in 2012 GSA received from the Navy custody of and accountability for Buildings 1 through 5 and the underlying land called Potomac Annex, adjacent to the existing DOS offices on Navy Hill. GSA and DOS entered into an associated Memorandum of Understanding requiring GSA to initiate the development of the PHCMP to guide future renovation and development of an 11.8 acre campus comprised of both sites. The PHCMP will develop the vision, goals, and development strategy for the property.

GSA is the lead agency for the PHCMP, and associated NEPA and NHPA compliance. DOS is a partner in the PHCMP development, a cooperating agency for NEPA and a signatory consulting party for NHPA.

Alternatives Under Consideration

GSA will analyze a range of alternatives including the no action alternative for the proposed PHCMP. As part of the EIS, GSA will study the impacts of each alternative on the human environment.

Scoping Process

In accordance with NEPA, a scoping process will be conducted to (i) aid in determining the alternatives to be considered and the scope of issues to be addressed, and (ii) identify the significant issues related to the PHCMP. ''Scoping'' is a tool for identifying the issues that should be addressed in the EIS and Section 106 consultation process. Scoping allows the public to help define priorities and express stakeholder and community issues to the agency through oral and written comments as described in 40 CFR part 1500.1(b). Scoping will be accomplished through a public scoping meeting, mail and email correspondence to potentially interested persons, agencies, and organizations, and meeting with agencies having an interest in the PHCMP. It is important that Federal, regional and local agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the Draft EIS.

GSA is also using the NEPA scoping process to facilitate consultation with the public under Section 106 of the National Historic Preservation Act. GSA welcomes comments from the public to ensure that it takes into account the effects of its action on historic and cultural resources.

Public Scoping Meeting

The public scoping meeting will be held on Wednesday, July 9, 2014, from 4:00 p.m. to 7:30 p.m. eastern standard time, at St. Mary's Church at 728 23rd Street NW. in Washington, DC. The meeting will be an informal open house where visitors may come, receive information, and give comments. GSA will publish announcement notices in the *Washington Post* and *The Georgetowner* approximately one to two weeks prior to the meeting. After scoping comments are received, they will be responded to in the EIS and through the Section 106 consultation process. A comment/response matrix summarizing the scoping and Section 106 comments will be made available to the public in the Draft and Final EIS.

Written Comments: Agencies and the public are encouraged to provide written comments on the scoping issues in addition to or in lieu of giving their comments at the public scoping meeting. Written comments regarding the environmental impact statement for the PHCMP must be postmarked or received no later than July 21, 2014, and sent to the following address: U.S. General Services Administration, National Capital Region, Attention: Jill Springer, NEPA Specialist, 301 7th Street SW., Room 4004, Washington, DC 20407. Email: *potomachill@gsa.gov* using the subject line: NEPA Scoping Comment.

Dated: June 10, 2014.

Mina Wright,

Director, Office of Planning and Design Quality, National Capital Region, Public Buildings Service.

[FR Doc. 2014–14064 Filed 6–16–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0955—New—30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before July 17, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Sherrette.Funn@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–0955—New—30D for reference.

Information Collection Request Title: The Blue Button Connector.

Abstract: Office of the National Coordinator for Health Information Technology, is requesting an approval on a new information collection. The Blue Button Connector is a Web site that helps consumers and patients find their own health information online from the entities that collect their information (i.e. hospitals, physicians, labs, immunization registries, state health information exchanges etc.). The Connector also helps developers build tools that respond to the readiness of the market. It also will provide links to apps and tools for consumers that use structured electronic health data.

Likely Respondents: Any entity providing health services to patients and or collecting health information on consumers which includes but is not limited to: Hospitals, physicians, labs, immunization registries, and state health information exchanges. Respondents will also include application developers with the capability to consume health information in a structured format from a patient.

Burden Statement: Organizations that would like to be listed on the Connector will fill out a 3–5 minute survey of nine questions. The survey will ask health data holding organizations to provide basic information about their access capabilities, reach, contact information and links to where patients could go to get their health data.

The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Providers	2,000	1	3/60	100
Hospitals	500	1	3/60	25
Labs	10	1	3/60	.5
State Immunization Registries	7	1	3/60	.35
Pharmacies	10	1	3/60	.5
State HIEs	15	1	3/60	.75
Total				127

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2014–14068 Filed 6–16–14; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting will be open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meetings and/or participate in the public comment session should email *OMH-ACMH@hhs.gov*.

DATES: The meeting will be held on Tuesday, July 8, 2014, from 9:00 a.m. to 5:00 p.m. and on Wednesday, July 9, 2014, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Dr. Rashida Dorsey, *OMH-ACMH@hhs.gov*, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222; fax: 240–453–8223.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during these meetings will include strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at this meeting is limited to space available. Individuals who plan to attend and need special

assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business Tuesday, July 1, 2014.

Dated: June 11, 2014.

J. Nadine Gracia,

Deputy Assistant Secretary for Minority Health, Office of Minority Health, U.S. Department of Health and Human Services.

[FR Doc. 2014–14066 Filed 6–16–14; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Preparedness and Response Science Board (previously known as the ''National Biodefense Science Board'') Call for Nominees

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: *The deadline for all application submissions to the National Preparedness and Response Science Board (NPRSB), previously known as the National Biodefense Science Board, is extended from June 15, 2014, to June 29, 2014, at 11:59 p.m..* The Office of the Secretary is accepting application submissions from qualified individuals who wish to be considered for membership on the NPRSB; seven members have membership expiration dates of December 31, 2014; therefore, seven new voting members will be selected for the Board. Nominees are being accepted in the following categories: Industry, academia, practicing health care, pediatrics, and organizations representing other appropriate stakeholders. Please visit the NPRSB Web site at *www.phe.gov/nprsb* for all application submission information and instructions. All members of the public are encouraged to apply.

DATES: The deadline for all application submissions is June 29, 2014, at 11:59 p.m.

FOR FURTHER INFORMATION CONTACT: Please submit any inquiries to CAPT Charlotte Spires, DVM, MPH, DACVPM, Executive Director and Designated Federal Official, National Preparedness and Response Science Board, Office of the Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services, Thomas P. O'Neill Federal Building, Room Number 14F18, 200 C St. SW., Washington, DC 20024; Office: 202–260–0627, Email address: *charlotte.spires@hhs.gov.*

SUPPLEMENTARY INFORMATION: The NPRSB is authorized under Section 319M of the Public Health Service (PHS) Act (42 U.S.C. 247d–7f) as added by Section 402 of the Pandemic and All-Hazards Preparedness Act of 2006 and amended by Section 404 of the Pandemic and All Hazards Preparedness Reauthorization Act and Section 222 of the PHS Act (42 U.S.C. § 217a). The Board provides expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The Board also provides advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Description of Duties: The Board shall advise the Secretary and/or ASPR on current and future trends, challenges, and opportunities presented by advances in biological and life sciences, biotechnology, and genetic engineering with respect to threats posed by naturally occurring infectious diseases and chemical, biological, radiological, and nuclear agents. At the request of the Secretary and/or ASPR, the Board shall review and consider any information and findings received from the working groups established under 42 U.S.C. 247d–7f(b). At the request of the Secretary and/or ASPR, the Board shall provide recommendations and findings for expanded, intensified, and coordinated biodefense research and development activities. The Board shall also provide any recommendation, finding, or report provided to the Secretary on these matters to the appropriate committees of Congress. Additional advisory duties concerning public health emergency preparedness and response may be assigned at the discretion of the Secretary and/or ASPR.

Structure: The Board shall consist of 13 voting members, including the Chairperson; additionally, there may be non-voting ex officio members. Pursuant to 42 U.S.C. 247d–7f(a), members and the Chairperson shall be appointed by the Secretary from among the nation's preeminent scientific, public health, and medical experts as follows: (a) Such federal officials as the Secretary determines are necessary to support the functions of the Board; (b) four individuals from the pharmaceutical, biotechnology, and device industries; (c) four individuals representing academia; and (d) five other members as determined appropriate by the Secretary, one of whom must be a practicing health care professional; one of whom shall be an individual from an organization representing health care consumers; one of whom shall be an individual with pediatric subject matter expertise; and one of whom shall be a state, tribal, territorial, or local public health official. Nothing in the membership requirements shall preclude a member of the Board from satisfying two or more of these requirements described in item (d). A member of the Board described in (b), (c), and (d) shall serve for a term of three years, and may serve not more than two consecutive terms.

Members who are not full-time or permanent part-time federal employees shall be appointed by the Secretary as Special Government Employees.

Dated: June 11, 2014.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2014–14173 Filed 6–16–14; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency Information Collection Activities:

Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Evaluation of the Educating the Educator (EtE) Workshop.'' In accordance with the Paperwork

Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on March 28th, 2014 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 17, 2014.

ADDRESSES: Written comments should be submitted to: Doris Letkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of the Educating the Educator (EtE) Workshop

AHRQ's Educating the Educator (EtE) workshop training project is an Agency knowledge translation and dissemination project that aims to increase knowledge about and use of AHRQ's EHC Program products among health care professionals. For the EtE project, AHRQ is sponsoring the development of an accredited, in-person, train-the-trainer workshop program for health care professionals to educate them on how to use AHRQ's EHC Program materials and resources in shared decision making (SDM) with patients/caregivers. As a train-the-trainer program, the workshop also provides education on effectively training other health care professionals to facilitate the dissemination of the key competencies taught by the program. Additionally, as part of the EtE project, a collection of new stand-alone tools are being developed to facilitate the implementation and use of AHRQ EHC Program materials. The new tools will be integrated into the EtE workshop training program and made available to workshop participants. These new tools also will be publicly-accessible through the AHRQ Web site for easy referral, access, and use by both workshop participants and other health care professionals. Ten EtE workshops, with 25–50 participants each, will be held each year for four years around the United States. Primary trainees will then be able to go back to their home institutions or organizations to train other secondary trainees.

AHRQ recognizes the importance of ensuring that its dissemination activities are useful, well implemented, and effective in achieving their intended goals. Therefore, an evaluation is associated with the EtE project. The EtE evaluation is comprised of two key components. One component has been designed to support both a process-oriented formative evaluation and a summative (impact) evaluation of the EtE train-the-trainer workshop program. The other component is designed to assess the impact of new tools developed through this project in supporting the implementation of AHRQ EHC Program materials.

The specific goals of the EtE train-the-trainer workshop evaluation (component 1) are to examine the following:

- Who is participating in both the primary train-the-trainer sessions, and in subsequent, secondary trainings offered by primary trainees?
- The uptake of and confidence among primary trainees in training others on the key competencies of the curriculum
- How the workshop implementation or course content should be modified to improve the quality of the training (e.g., instructor, materials, modules, etc.)?
- The extent to which workshop participants have been able to conduct additional trainings, start new PCOR education programs based on the workshop curriculum, or integrate the workshop curriculum into existing training programs in their local settings.
- What the results of subsequent trainings by workshop participants were among secondary participants (i.e., individuals who received training from a workshop participant) in terms of their use of PCOR information and the practice of SDM with patients?
- Whether workshop participants have participated in other project activities, such as ongoing webinars or the learning network that are planned as part of the EtE project.
- How workshop participants are using what they have learned from the training program in their own practice?

The specific goals of the EtE new tools evaluation (component 2) are to examine the following:

- If and how workshop trainees and other health care professionals are using the new tools developed during this project to support their implementation of AHRQ EHC Program resources?
- How useful clinicians find AHRQ EHC Program resources to be in their practice?
- How frequently new tools are being accessed and used by workshop trainees and other health care professionals?
- Suggestions for improving tools to meet health care professionals' needs when serving their patients?

This study is being conducted by AHRQ through its contractor, AFYA, Inc., and The Lewin Group, pursuant to AHRQ's statutory authority to support the agency's dissemination of comparative clinical effectiveness research findings. 42 U.S.C. 299b–37(a)–(c).

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

(1) Pre-Training Survey of Primary Participants. This pen and paper survey will be administered to train-the-trainer workshop participants (also referred to as Primary Workshop Participants) immediately prior to the start of the in-person train-the-trainer workshop sessions. Information collected includes (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) participants knowledge of core concepts and objectives of the workshop; and (3) their confidence in training others. This instrument will also collect information about participants' use of and exposure to AHRQ EHC Program products for comparison at later time points.

(2) Post-Training Survey of Primary Participants. This pen and paper survey will be administered to train-the-trainer workshop participants immediately following the conclusion of the in-person train-the-trainer workshop sessions. Information collected includes (1) post-training knowledge of core concepts presented in workshop; and (2) post-training confidence in training others. The post-training instrument will also collect information about participants' reaction to the training (e.g., instructor, the content, the presentation style, the schedule, etc.), a requirement for accreditation purposes.

(3) Six-Month Post-Training Survey of Primary Participants. This survey will be administered to primary workshop participants six months following their participation in the train-the-trainer workshop. The survey will be Web-enabled, and a link to the survey will be emailed to participants. Information to be collected includes (1) behaviors and experiences of primary workshop participants in training others (i.e., secondary participants); (2) the numbers of individuals they have trained; and (3) barriers they have encountered in training others. This instrument will also collect (4) data on primary

participants' early experiences in applying what they learned in the workshop training in their own clinical practice with patients; and (5) their use of AHRQ EHC resources and tools which will be compared to baseline measures.

(4) One-Year Post-Training Survey of Primary Participants. This survey will be administered to primary workshop participants one year following their participation in the train-the-trainer workshop. The survey will be Web-enabled, and a link to the survey will be emailed to participants. This survey will collect the same information as collected in the 6-month survey. This instrument will also collect new information from participants about their use/participation in continued training that will be offered (e.g., participating in training and technical assistance webinars and the learning network that will be created).

(5) One-Year Post Survey of Secondary Workshop Participants. This survey will be administered to secondary workshop participants one year following their receipt of continuing education (CE) credits for participating in locally-delivered workshops by primary workshop participants. The questions of interest include (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) their use of AHRQ EHC program products; (3) how useful they thought the training they received was in developing their patient engagement and SDM skills; (4) barriers they have encountered when implementing what they learned in practice; (5) the types of changes they or their organization have made related to involving patients in health care decision making and their use of decision support tools, since participating in the workshop; and (6) any changes that they have observed in their patients since they participated in the training.

(6) New Tool Users. This survey will be deployed on the AHRQ Web site on a quarterly basis. More specifically, it will be made available on the new tools Web landing page on the AHRQ Web site so that it targets users of the new tools from this project. Information to be collected includes (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) whether or not they have participated in the workshop training associated with this project; (3) how often respondents use tools on the AHRQ tools landing page; and (4) how useful respondents find the tools to be and new tools that they would like to see added.

AHRQ and the EHC Program staff will use the information collected through this Information Collection Request to assess the short- and long-term progress in achieving the dissemination and implementation aims of the EtE project. The information collected will facilitate real-time adjustments in the strategies and tactics that are used to promote and deliver the new tools and workshop training. The summative evaluation will assess the impact of this EtE workshop training program and new tools on increased awareness, understanding, and use of AHRQ's EHC Program products in clinical practice with patients. The specific purpose and use of each of the data collection instruments is described below.

(1) Pre- and Post-Training Surveys of Primary Workshop Participants—These data collections will be used to assess the effectiveness of the training in transferring course concepts to train-the-trainer participants. They will be used to measure what participants learned during the training relative to their knowledge of core concepts and objectives of the workshop, and their confidence in training others as assessed prior to the training (pre-training survey). The pre-training survey also will establish a baseline level regarding workshop participants' use and exposure to AHRQ EHC Program products for comparison at later time points. The post-training assessment also will be used to assess workshop participants' reaction to the training. This is important for the process evaluation component of this project as it will provide information on participants' reactions to specific components of the program (e.g., instructor, the content, the presentation style, the schedule, etc.), a requirement for accreditation purposes, and help to identify where minor tweaking of the program may be needed to better meet participants' needs.

(2) Six-Month Post-Training Survey, of Primary Participants—This data collection will be used to assess the behaviors and experiences of workshop participants in training others (i.e., secondary participants), and whether the training has promoted changes to participants' use of PCOR resources in SDM with their patients. This survey will also be used to assess whether the use of AHRQ EHC Program products has increased since participating in the survey.

(3) One-Year Post-Training Survey of Primary Participants—This data collection will be used to assess the long-term impact of the train-the-trainer workshop on participants' use of PCOR resources in SDM with patients in clinical practice. The assessment will determine if the training results in or contributes to changes in participants' continued use of key training concepts relative to baseline and 6-month assessments. This assessment also will provide information on the numbers of other individuals (i.e., secondary participants) who have received training at subsequent time points by the train-the-trainer workshop participants and the impact of training those secondary participants on their organizational practices regarding using AHRQ EHC Program products in SDM with their patients.

(4) One-Year Post Training Survey of Secondary Workshop Participants—This data collection will be used to assess the effectiveness of the train-the-trainer format on disseminating knowledge among the health care community. The questions of interest include the following:

- Are participants from the train-the-trainer workshop able to effectively transfer or share key competencies from their training to other locally-based health care professionals (i.e., secondary participants)?
- Do secondary participants taught by AHRQ-sponsored train-the-trainer workshop participants increase their use of AHRQ EEC Program products in SDM with their patients?

(5) New Tool Survey—This data collection will be used to gather information on AHRQ Web site users experiences with the available new tools including who uses these tools and if they are useful.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this evaluation. For the longitudinal evaluation, four questionnaires will be completed by approximately 1,500 primary trainees who participate in the AHRQ-sponsored EtE train-the-trainer workshop, at the specified intervals, and each will require 10 or 15 minutes to complete. The annual survey of secondary participants will be completed by 3,000 secondary trainees (individuals who receive training from primary trainees) over the 3 years. Based on previous experience with convenience-based Web-based surveys, we estimate that the quarterly Web-based survey of new tool users will be completed by approximately 1,200 respondents over the 3-year period.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in this

project. The total cost burden is estimated to be $91,668.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Pre-training survey (primary trainees) (time point #1)	*1500	1	15/60	375
Post-training survey (time point #2)	*1500	1	15/60	375
6-month post training survey (time point #3)	*1500	1	10/60	250
12-month post training survey (time point #4)	*1500	1	10/60	250
Annual survey (one-time survey of secondary trainees)	3000	1	10/60	500
Quarterly survey of new tool users	1200	1	5/60	100
Total	**5,700	NA	NA	1850

*These individuals are the same 1500 individuals (primary trainees) and will be assessed at four different time points.
**Estimated total number of unique respondents.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate* ($)	Total cost burden ($)
Pre-training survey (primary trainees) (time point #1)	1500	375	*49.55	18,581
Post-training survey (time point #2)	1500	375	*49.55	18,581
6-month post training survey (time point #3)	1500	250	*49.55	12,388
12-month post training survey (time point #4)	1500	250	*49.55	12,388
Annual survey (one-time survey of secondary trainees)	3000	500	*49.55	24,775
Quarterly survey of new tool users	1200	100	*49.55	4,955
Total	**5,700	1,850	NA	91,668

*Average hourly wage based on the weighted average of wages for 1 Family and General Practitioner (29–1062, $81.78), 1 Internist (29–1063, $86.20), 1 Physician Assistant (29–1071, $44.96), 1 Psychiatrist (29–1066, $95.33), 1 Nurse Practitioner (29–1171, $44.48), 3 Registered Nurses (29–1141, $34.23), 1 Pharmacist (29–1051, $59.87), 1 Licensed Practical or Licensed Vocational Nurse (29–2061, $21.17), 1 Health Educator (21–1091, $20.52), and 1 Administrative Services Manager (11–3011, $37.61). Data Source: National Occupational Employment and Wage Estimates in the United States, May 2012, ''U.S. Department of Labor, Bureau of Labor Statistics'' (available at *http://www.bls.gov/oes/current/naics4 621400.htm*).
**Estimated total number of unique respondents.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 6, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–14083 Filed 6–16–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''The Agency for Healthcare Research and Quality (AHRQ) Health Care Innovations Exchange Innovator Interview and Innovator Email Submission Guidelines.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on March 28th, 2014 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 17, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports

Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

''The Agency for Healthcare Research and Quality (AHRQ) Health Care Innovations Exchange Innovator Interview and Innovator Email Submission Guidelines.''

This request for Office of Management and Budget (OMB) review is for renewal of the existing collection that is currently approved under OMB Control No. 0935–0147, AHRQ Health Care Innovations Exchange Innovator Interview and AHRQ Health Care Innovations Exchange Innovator Email Submission Guidelines, which expires on May 31, 2014.

The Health Care Innovations Exchange provides a national-level information hub to foster the implementation and adaptation of innovative strategies and policies that improve health care quality and reduce disparities in the care received by different populations. The Innovations Exchange's target audiences, broadly defined, are current and potential change agents in the U.S. health care system, including clinicians (e.g., physicians, nurses, and other providers), health care administrators, quality improvement professionals, researchers, educators, and policymakers.

The goals of the Health Care Innovations Exchange are to:

(1) Identify health care service delivery and policy innovations and provide a national level repository of searchable innovations and tools that enables health care decision makers to quickly identify ideas and tools that meet their needs. These innovations come from many care settings including inpatient facilities, outpatient facilities, long term care organizations, health plans, and community care settings. They also represent many patient populations, disease conditions, and processes of care such as preventive, acute, and chronic care.

(2) Foster the implementation and adoption of health care service delivery and policy innovations that improve health care quality and reduce disparities in the care received by different populations.

This data collection is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority (1) to conduct and support research on, and disseminate information on, health care and on systems for the delivery of such care, 42 U.S.C. 299a(a), and (2) to promote innovation in evidence-based health care practices and technologies by promoting education and training and providing technical assistance in the use of health care practice results, 42 U.S.C. 299b–5(a)(4).

Method of Collection

To achieve the first goal of the Innovations Exchange the following data collections will be implemented:

(1) Email submission—Based on experience during the current approval period, approximately 10% of the health care innovations considered for inclusion annually, and their associated innovators, will submit their innovations via email to the Innovations Exchange without prior contact (about 8 annually). Innovators who submit their innovations for possible publication through the email submission process will be considered as will innovations identified by project staff through an array of sources that include: published literature, conference proceedings, news items, list serves, Federal agencies and other government programs and resources, health care foundations, and health care associations.

- To meet the publication target of 75 new innovation profiles per year, a purposive sample of approximately 76 health care innovations will be identified and selected annually, in addition to the email submissions, for a total of 84 innovations considered annually for potential consideration. These innovations will be selected to ensure that innovations included in the Innovations Exchange cover a broad range of health care settings, care processes, policies, priority populations, and clinical conditions. Based on experience, approximately 10% of the candidate innovations either will not meet the inclusion criteria or their innovators will decide not to continue their participation after the interview. Therefore, 90% (75) of the 84 candidate innovations will move into the publication stage each year.

(2) Health care innovator interview—To collect and verify the information required for the innovation profiles, health care innovators will be interviewed by telephone about the following aspects of their innovation: health care problem addressed, impetus for the innovation, goals of the innovation, description of the innovation, sources of funding, evaluation results for the innovation, setting for the innovation, history of planning and implementation for the innovation, and lessons learned concerning the implementation of the innovation. Interviews will be conducted with innovators identified by project staff and those identified through email submission.

(3) Annual follow-up reviews—After the innovation profile is published, on a yearly basis, innovators will be contacted by email to review and update their profiles.

The ultimate decision to publish a detailed profile of an innovation depends on several factors, including an evaluation by AHRQ, AHRQ's priorities, and the number of similar ideas in the Innovations Exchange. AHRQ's priorities include identifying and highlighting innovations (1) that will help reduce disparities in health care and health status; (2) that will have significant impact on the overall value of health care; (3) where the innovators have a strong interest in participating; and (4) that have been supported by AHRQ.

The AHRQ Health Care Innovations Exchange's use of the interview guide and email submission guidelines assists in determining if the suggested innovation: (1) Meets established eligibility criteria of the Innovation Exchange, and (2) addresses AHRQ's priorities.

Access to the AHRQ Health Care Innovations Exchange is freely available to the public at *http://www.innovations.ahrq.gov/.* Diverse groups use the Innovations Exchange, ranging from nurses and health administrators, quality improvement professionals, researchers and educators. See *http://www.innovations.ahrq.gov/aboutaspx* which displays information about Innovations Exchange users by role for 2012–2013.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this project. Approximately 84 innovators will participate in the initial data collection each year with 75 of those being published to the Innovations Exchange Web site. About 8 innovations will be submitted by email, which requires 30 minutes. All 84 potential innovators will participate in the health care innovator interview, including the 8 submitted via email. The interview will last about 75 minutes, and an average additional 30 minutes is typically required for the innovator to review, comment on, and approve the written profile.

Based on experience, approximately 10% of the candidate innovations either will not meet the inclusion criteria or their innovators will decide not to continue their participation after the interview. Therefore, 90% (75) of the 84 candidate innovations will move into

the publication stage each year. Annual follow-up reviews will be conducted with all innovations that have been in the Innovations Exchange for at least one full year. With an expected total of 825 innovations in the Exchange by the end of the current approval period, and an additional 225 to be added over the course of the next 3-year approval period (75 per year), an average of 800 reviews will be conducted annually and will require about 15 minutes to complete. The number of profiles undergoing annual review will increase annually from 825 in the first year, to 900 in the second year, and 975 in the third year. The average annualized number of annual follow-up reviews is projected to be 800 as it is anticipated that approximately 100 profiles will be archived over three years. Archived profiles are excluded from annual review. The total annualized burden is estimated to be 347 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Email submission	8	1	30/60	4
Health care innovator interview	84	1	75/60	105
Innovator review and approval of written profile	75	1	30/60	38
Annual follow-up reviews	800	1	15/60	200
Total	967			347

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this project. The total annualized cost burden is estimated to be $21,220.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Email submission	8	4	$61.15	$245
Health care innovator interview	84	105	61.15	6,421
Innovator review and approval of written profile	75	38	61.15	2,324
Annual follow-up reviews	800	200	61.15	12,230
Total	967	347		21,220

* Average hourly wage rate for health care innovators is based upon statistics from the Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages, May 2012 (*http://www.bls.gov/oes/current/oes290000.htm*), and was calculated as an average of the mean hourly wage rate for Family and General Practitioners and the mean hourly wage for all occupations in the major group, ''Healthcare Practitioners and Technical Occupations''.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 29, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–14082 Filed 6–16–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Public Members

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for nominations for public members.

SUMMARY: 42 U.S.C. 299c establishes a National Advisory Council for Healthcare Research and Quality (the Council). The Council is to advise the Secretary of HHS (Secretary) and the Director of the Agency for Healthcare Research and Quality (AHRQ) on matters related to activities of the Agency to improve the quality, safety, efficiency, and effectiveness of health care for all Americans.

Seven current members' terms will expire in November 2014. To fill these positions, we are seeking individuals who are distinguished: (1) In the conduct of research, demonstration projects, and evaluations with respect to health care; (2) in the fields of health care quality research or health care improvement; (3) in the practice of medicine; (4) in other health professions; (5) in representing the private health care sector (including health plans, providers, and purchasers) or administrators of health care delivery systems; (6) in the fields of health care

economics, information systems, law, ethics, business, or public policy; and, (7) in representing the interests of patients and consumers of health care. 42 U.S.C. 299c(c)(2). Individuals are particularly sought with experience and success in activities specified in the summary above.

DATES: Nominations should be received on or before 60 days after date of publication.

ADDRESSES: Nominations should be sent to Ms. Karen Brooks, AHRQ, 540 Gaither Road, Room 3006, Rockville, Maryland 20850. Nominations may also be emailed to *Karen.Brooks@ahrq.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Brooks, AHRQ, at (301) 427–1801.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299e provides that the Secretary shall appoint to the National Advisory Council for Healthcare Research and Quality twenty one appropriately qualified individuals. At least seventeen members shall be representatives of the public and at least one member shall be a specialist in the rural aspects of one or more of the professions or fields listed in the above summary. In addition, the Secretary designates, as ex officio members, representatives from other Federal agencies, principally agencies that conduct or support health care research, as well as Federal officials the Secretary may consider appropriate. 42 U.S.C. 299c(c)(3). The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction of and programs undertaken by AHRQ.

Seven individuals will be selected presently by the Secretary to serve on the Council beginning with the meeting in the spring of 2015. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Self-nominations are accepted. Nominations shall include: (1) A copy of the nominee's resume or curriculum vitae; and (2) a statement that the nominee is willing to serve as a member of the Council. Selected candidates will be asked to provide detailed information concerning their financial interests, consultant positions and research grants and contracts, to permit evaluation of possible sources of conflict of interest. Please note that once you are nominated, AHRQ may consider your nomination for future positions on the Council. Federally registered lobbyists are not permitted to serve on this advisory board pursuant to the Presidential Memorandum entitled ''Lobbyists on Agency Boards and Commissions'' dated June 10, 2010, and the Office of Management and Budget's ''Final Guidance on Appointment of Lobbyists to Federal Boards and Commissions,'' 76 Fed. Reg. 61756 (October 5, 2011).

The Department seeks a broad geographic representation. In addition, AHRQ conducts and supports research concerning priority populations, which include: low-income groups; minority groups; women; children; the elderly; and individuals with special health care needs, including individuals with disabilities and individuals who need chronic care or end-of-life health care. See 42 U.S.C. 299(c). Nominations of persons with expertise in health care for these priority populations are encouraged.

Dated: May 29 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–14081 Filed 6–16–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Diagnosis and Treatment of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for scientific information submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Diagnosis and Treatment of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS), which is currently being conducted by the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before July 17, 2014.

ADDRESSES: Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/*. Please select the study for which you are submitting information from the list to upload your documents. Email submissions: *SIPS@epc-src.org*.

Print Submissions

Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epcsrc.org*.

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a review of the evidence for Diagnosis and Treatment of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS).

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on Diagnosis and Treatment of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS), including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1906#8766*.

This notice is to notify the public that the EHC program would find the following information on Diagnosis and Treatment of Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS).

- A list of completed studies your company has sponsored for this indication. In the list, indicate whether results are available on

ClinicalTrials.gov along with the ClinicalTrials.gov trial number.

• For completed studies that do not have results on *ClinicalTrials.gov*, a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.

• A list of ongoing studies your company has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

• Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your company for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the Effective Health Care Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/*.

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1906#8766*.

Key Questions (KQs)

1. What methods are available to clinicians to diagnose ME/CFS and how do the use of these methods vary by patient subgroups?

A. What are widely accepted diagnostic methods and what conditions are required to be ruled out or excluded before assigning a diagnosis of ME/CFS?

B. What is the accuracy and concordance of diagnostic methods?

C. What harms are associated with diagnosing ME/CFS?

2. What are the (a) benefits and (b) harms of therapeutic interventions for patients with ME/CFS and how do they vary by patient subgroups?

A. What are the characteristics of responders and non-responders to interventions?

PICOTS (Population, Intervention, Comparator(s), Outcomes, Timing, Setting)

Population(s)

1. Include:

A. For KQ 1: Symptomatic adults (aged 18 years or older) with fatigue

B. For KQ 2: Adults aged 18 years or older, with ME/CFS, without other underlying diagnosis

2. Exclude:

A. Children and adolescents

B. Patients with other underlying diagnosis

Interventions

1. Include:

A. For KQ1: Case definitions: e.g., Fukada/CDC, Canadian, International and others

For KQ2: symptom-based medication management (immune modulators, beta blockers, antidepressants, anxiolytics, stimulants), forms of counseling and behavior therapy, graded exercise programs, complementary and alternative medicine (acupuncture, relaxation, massage, or other), and transcutaneous electrical nerve stimulation.

Comparators

1. Include:

A. For KQ1: Diagnostic accuracy studies and diagnostic concordance studies with comparators

B. For KQ2: Placebo or no treatment/usual care, other active interventions (including combination therapies and head-to-head trials)

Outcomes

1. Include:

A. For KQ1: Sensitivity, specificity, positive predictive value, negative predictive value, positive likelihood ratio, negative likelihood ratio, C statistic (AUROC), net reclassification index; concordance, any potential harm from diagnosis (such as psychological harms, labeling, risk from diagnostic test, misdiagnosis, other)

B. For KQ2: Overall function (i.e., 36-item Short Form Survey [SF–36]), quality of life, days spent at work/school, proportion working full or part time, fatigue (Multidimensional Fatigue Inventory [MFI] or similar), adverse effects of interventions, withdrawals and withdrawals due to adverse events, rates of adverse events due to interventions

Timing

1. Include: 12 weeks or longer

Setting

1. Include: Clinical settings

Dated: June 3, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–14084 Filed 6–16–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Privacy Act of 1974; Report of New System of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new SOR, titled ''CMS Encounter Data System (EDS)'', System No. 09–70–0506. CMS intends to collect encounter data, or data on each item or service delivered to enrollees of Medicare Advantage (MA) plans offered by MA organizations as defined at Title 42, Code of Federal Regulation (CFR), § 422.4. Pursuant to 42 CFR 422.310, each MA organization must submit encounter data to CMS that is used to determine the risk adjustment factors for payment, updating the risk adjustment model, calculating Medicare Disproportionate Share Hospital (DSH) percentages, Medicare coverage purposes, and quality review and improvement activities. Encounter data will be collected and maintained in the EDS.

Under the authority granted in Section 1115 of the Social Security Act (the Act), CMS is authorized to conduct experimental, pilot or demonstration

projects. CMS is conducting a demonstration project under the Financial Alignment Initiative to test a new capitated payment system and item/service delivery model designed to lower costs and improve the quality of care for individuals eligible for both Medicare and Medicaid (dual eligibles). CMS and the participating State Medicaid agency jointly contract with health plans (known as Medicare-Medicaid Plans or ''MMPs''). MMPs are paid monthly on a capitated basis and are required to submit to CMS comprehensive encounter data on each item or service provided to each enrollee, including both Medicare and Medicaid items and services. The program and the SOR are more thoroughly described in the Supplemental Information section and System of Records Notice (SORN), below.

DATES: Effective 30 days after publication. Written comments should be submitted on or before the effective date. HHS/CMS/CM may publish an amended SORN in light of any comments received.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards and Services, Offices of Enterprise Management, CMS, Room S2–24–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Shari Kosko, Division of Encounter Data and Risk Adjustment Operations, Medicare Plan Payment Group, Center for Medicare, Centers for Medicare & Medicaid Services, Mail Stop C1–13–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–6159 or email: *Shari.Kosko@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION: Medicare beneficiaries who receive both Part A and Part B benefits may elect to receive their Medicare coverage by enrolling in a plan offered by a MA organization or certain other Medicare private plans. MA plans must provide all Medicare-covered items and services, and may also provide additional benefits not covered by Original Medicare. CMS pays MA organizations on a monthly capitated rate for each beneficiary enrolled, and the MA organizations are responsible for paying providers for items and services that are provided to enrolled beneficiaries. All MA organizations are required to submit encounter data that CMS uses to adjust the advanced monthly payments made to the MA organization.

CMS will collect encounter data for all items and services provided to MA plan enrollees covered by all MA organizations in the states where the demonstration projects are being conducted. In the case of cost plans, only encounter data for items and services covered by the plans will be collected. None of the data that will be included in the EDS will come from Medicare Part A or Part B data, nor will any additional identifiers be provided in the EDS data submitted by the MA organizations. However, the data submitted to EDS will be provided into the Integrated Data Repository (IDR) and will be available along with Medicare Part A and Part B data.

Beginning with calendar year 2007, 100 percent of monthly payments to MA organizations have been subject to adjustment based on risk adjustment factors. Given the increased importance of the accuracy of our risk adjustment methodology, CMS amended 42 CFR 422.310 in August of 2008 to authorize the collection of data from MA organizations regarding each item and service provided to a MA plan enrollee. Once encounter data for MA enrollees are available in the EDS, CMS will have beneficiary-specific information on the utilization of items and services by MA plan enrollees. These data will primarily be used to develop and calibrate the CMS hierarchical condition categories (CMS–HCC) for risk adjustment models using MA patterns of diagnoses and expenditures. These new models will be used to calculate the risk adjustment factors used to adjust advanced monthly payments to MA plans made by CMS on behalf of beneficiaries. The data will also be used for other purposes such as calculating Disproportionate Share Hospital (DSH) payments and quality improvement activities, etc. as outlined in 42 CFR 422.310(f).

The types of MA organizations that CMS collects encounter data from include: coordinated care plans (including Special Needs Plans), private fee for service plans, and a combination of a MA Medical Savings Account (MSA) and a contribution into a MA MSA established in accordance with 42 CFR 422.262. These categories also include Medicare Advantage-Prescription Drug plans, Program-of-All-Inclusive-Care-for-the-Elderly-(PACE) organizations, Employer Group Health Plans (EGHPs), Section 1833 health care prepayment plans (HCPPs) and Section 1876 plans operated by an HMO or Competitive Medical Plan (HMO/CMP) (42 U.S.C. 1833 and 42 U.S.C. 1876, referred to collectively as ''cost plans'').

The encounter data that CMS collects includes, the identity of the Medicare beneficiary, the provider, the place of service, and the item or service provided. In addition to identifying information about the beneficiary and provider, other significant data elements submitted by the MA organization include, claim pricing information, contact information, service provider information, revenue center codes, modifiers, Healthcare Common Procedure Coding System (HCPCS) codes, and Current Procedural Terminology (CPT) codes.

The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the United States Government maintains personally identifiable information (PII) in a system of records. A ''system of records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including a description of the categories of records maintained in the system, the source(s) of records in the system, the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them).

SYSTEM NUMBER: 09–70–0506

SYSTEM NAME:

CMS Encounter Data System (EDS), HHS/CMS/CM.

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850; CDS Columbia Data Center EDC2, I–20 at Alpine Road, AA–278, Columbia, SC 29219; and at various contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information maintained in this system includes identifying information of individuals and beneficiaries who have enrolled in a MA plan (including coordinated care plans, Special Needs

Plans, private fee for service plans, Medicare Medical Savings Accounts, PACE organizations, MMPs, and MA–PD plans) (Medicare Advantage plus Part D plans) (collectively, ''MA plan enrollees''), whose information is reported by a Medicare provider, supplier, physician, or other practitioner. It also includes identifying information of those health care professionals who provide the items or services to individuals during a service year.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the name and other identifying information of the MA plan enrollee, beneficiary; and the name, work address, work phone number, social security number, National Provider Identification Number (NPI) of servicing providers, supplier, physician, or other practitioner. CMS will collect the admission date, discharge date, health insurance claim number (HICN), Medicare hospital number/CCN (CMS Certification Number) and other identifying demographics of individuals necessary to characterize the context and purposes of each item and service provided to a Medicare enrollee by a provider, supplier, physician, or other practitioner. MA plans will make data collection changes from 5 data elements currently collected to all of the required data elements on the HIPAA 5010 version of the X12 standards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1853(a)(3)(B) of the Act requires that MA organizations and certain other private Medicare plans submit data regarding inpatient hospital and other services that CMS deems necessary to risk adjust these payments. The final 2009 Inpatient Prospective Payment System rule (73 FR 48757, August 19, 2008) modified 42 CFR 422.310 to clarify that the Secretary has the authority to require MA organizations and other private plans to submit encounter data for each item and service provided to a MA plan enrollee. Information for the Financial Alignment Initiative is being collected from MA plans that provide an integrated set of Medicare and Medicaid services through the demonstration project authorized under section 1115 of the Act.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to collect and maintain encounter data for each item and service provided to MA plan enrollees reported by a Medicare provider, supplier, physician, or other practitioner. CMS will collect information necessary to determine the risk adjustment factors used to adjust payments, calculate Medicare DSH percentages, conduct quality review and improvement activities, and for other Medicare coverage purposes. Information retrieved from this SOR will also be disseminated or disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or a CMS grantee; (2) assist another Federal agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist MA plans with required collection of encounter data obtained from the provider, supplier, physician, or other practitioner that furnished the item or service; (4) support an individual or organization for a research; (5) support litigation involving the Agency related to this SOR; (6) to assist a contractor combat fraud, waste, and abuse in certain health care programs; (7) to assist another Federal agency combat fraud, waste, and abuse; (8) to assist appropriate Federal agencies and CMS contractors and consultants to assist in CMS' efforts to respond to a suspected or confirmed breach; (9) assist the U.S. Department of Homeland Security (DHS) cyber security personnel; and (10) assist with emergency preparedness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

ENTITIES WHO MAY RECEIVE DISCLOSURES UNDER ROUTINE USES

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the EDS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible under 42 CFR 422.310, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish the following routine use disclosures of information maintained in the system:

1. To Agency contractors, consultants, or CMS grantees who have been engaged by the Agency in order to support them in accomplishment of a CMS function relating to the purposes for this collection and who need to have access to the records in order to assist CMS.

2. To another Federal agency, agency of a state government, an agency established by state law, or its fiscal agent in order to:

a. Contribute to the accuracy of CMS' proper payment of Medicare benefits,

b. enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. fulfill oversight, regulatory, or policy functions performed by such agency.

3. To assist MA plans with the required collection of encounter data, which is to be obtained from the provider, supplier, physician, or other practitioner that furnished the item or service.

4. To an individual or organization to support or assist them with (a) a research, evaluation or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, (b) payment related projects, and (c) analysis of the provision of health services.

5. To provide information to the U.S. Department of Justice (DOJ), a court, or an adjudicatory body when (a) CMS or any component thereof, or (b) any employee of CMS in his or her official capacity, or (c) any employee of CMS in his or her individual capacity where the DOJ has agreed to represent the employee, or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court, or adjudicatory body is compatible with the purpose for which the agency collected the records.

6. To a CMS contractor (including but not limited to Medicare Administrative Contractors) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

7. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers or that has the authority to investigate potential fraud, waste or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect,

investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

8. To appropriate Federal agencies and CMS contractors and consultants that have a need to know the information for the purpose of assisting CMS' efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this SOR, provided that the information disclosed is relevant and necessary for that assistance.

9. To the U.S. Department of Homeland Security (DHS) cyber security personnel, if captured in an intrusion detection system used by HHS and DHS pursuant to the Einstein 2 programs.

10. To disclose the personally identifiable information of MA plan enrollees to public health authorities, and those entities acting under a delegation of authority from a public health authority, when requesting such information to carry out statutorily-authorized public health activities pertaining to emergency preparedness and response. Disclosures under this routine use will be limited to ''public health authorities'', ''public health activities'', and ''minimum necessary data'', as defined in the HIPAA Privacy Rule (45 CFR 154.502, 164.512(b), 164.502(b) and 164.514(d)(3)(iii)(A)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All records are accessible by NPI/NPPES or by beneficiary HICN. This system supports both on-line and batch access. The EDS system itself does not provide reporting capabilities. All reporting functionality can be found in the IDR.

SAFEGUARDS:

Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational, and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems, and to prevent unauthorized access. Access to records in the EDS will be limited to CMS personnel and approved contractors.

RETENTION AND DISPOSAL:

Records containing PII will be maintained for a period of up to 10 years after entry in the database. Any such records that are needed longer, such as to resolve claims and audit exceptions or to prosecute fraud, will be retained until such matters are resolved. Enrollee claims records are currently subject to a document preservation order and will be preserved indefinitely pending further notice from the DOJ.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Risk Adjustment Payment and Policy, Medicare Plan Payment Group, Center for Medicare, Centers for Medicare & Medicaid Services.

NOTIFICATION PROCEDURE:

Individuals wishing to know if this system contains records about them should write to the system managers and include the pertinent personal identifier used for retrieval of their records (i.e., TIN, NPI or HICN).

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about them in this system should follow the same instructions indicated under ''Notification Procedure'' and reasonably specify the record contents being sought. (These procedures are in accordance with HHS Privacy Act regulations at 45 CFR 5b.5 (a)(2)).

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of information about them in this system should follow the same instructions indicated under ''Notification Procedure.'' The request should reasonably identify the record and specify the information being contested; state the corrective actions sought, and provide the reasons for the correction, with supporting justification. (These procedures are in accordance with HHS Privacy Act regulations at 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include data collected from MA organizations and encounter data obtained from the provider, supplier, physician, or other practitioner that furnished the item or service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Celeste Dade-Vinson,

Health Insurance Specialist, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–14038 Filed 6–16–14; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Cornea and Anterior Eye Grant Applications.

Date: July 21, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E Schaffner, Ph.D., Chief, Scientific Review Branch Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS).

Dated: June 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14109 Filed 6–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Female Contraceptive Development Program (U01).
Date: July 9, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road Northwest, Washington, DC 20015.
Contact Person: David Weinberg, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, 301–435–6973, *David.Weinberg@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Prenatal Events—Postnatal Consequences.
Date: July 10, 2014.
Time: 4:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference).
Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review, Group Biobehavioral and Behavioral Sciences Subcommittee Biobehavioral and Behavioral Sciences.
Date: July 10–11, 2014.
Time: 8:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.
Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Population Centers Infrastructure (P2C) Meeting.
Date: July 15, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Carla T. Walls, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6898, *wallsc@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Intellectual and Developmental Disabilities Research Center (IDDRC).
Date: July 21, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.
Contact Person: MARITA R. HOPMANN, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, CPCCRN Review.
Date: August 7–8, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Sherry L Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–451–3415, *duperes@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, FMR1 CGG Expansions: Prevalence, Transmission, and Associated Phenotypes.
Date: August 7, 2014.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852.
Contact Person: David Weinberg, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, 301–435–6973, *David.Weinberg@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: June 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14111 Filed 6–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.
Date: July 17, 2014.
Time: 11:30 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Camilla E. Day, Ph.D., Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov*.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, H3Africa ELSI.
Date: July 23, 2014.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Human Genome Research Institute, Suite 4076, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS).

Dated: June 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14110 Filed 6–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 23, 2014, 8:30 a.m. to June 24, 2014, 6:00 p.m., Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102 which was published in the **Federal Register** on May 23, 2014, 79 FR 29787 pg. 29787.

The meeting will start on June 23, 2014 at 8:30 a.m. and end on June 23, 2014 at 6:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: June 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14108 Filed 6–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Primary and Behavioral Health Care Integration Program (OMB No. 0930–0340)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services, (CMHS) is requesting a revision from the Office of Management and Budget (OMB) for data collection activities associated with their Primary and Behavioral Health Care Integration (PBHCI) Program. Specifically, SAMHSA is requesting approval to only collect information on physical health indicators through a supplemental module to the TRansforming ACcountability (TRAC) System and grantee quarterly reports. The current data collection (OMB No. 09300340) expires on September 30, 2014.

The purpose of the PBHCI grant program is to improve the overall wellness and physical health status of people with serious mental illnesses (SMI), including individuals with co-occurring substance use disorders, by supporting communities to coordinate and integrate primary care services into publicly-funded community mental health and other community-based behavioral health settings. The program's goal is to improve the physical health status of adults with serious mental illnesses (and those with co-occurring substance use disorders) who have or are at risk for co-occurring primary care conditions and chronic diseases. The program's objective is to support the triple aim of improving the health of those with SMI; enhancing the client's experience of care (including quality, access, and reliability); and reducing/controlling the per capita cost of care.

This information collection is needed to provide SAMHSA with sufficient information to monitor grantee performance and to assess whether integrated primary care services produce improvements in the physical health of the SMI population receiving services from community-based behavioral health agencies.

Collection of the information included in this request is authorized by Section 505 of the Public Health Service Act (42 U.S.C. 290aa–4)—Data Collection. Authorization for the PBHCI program is provided under Section 5604 of H.R. 3590, the Affordable Care Act (ACA), which authorizes SAMHSA to provide awards for the co-location of primary and specialty care in community-based mental health settings.

The table below reflects the annualized hourly burden.

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response per respondent	Total hour burden
Client-level interview—Physical Health Indicators	14,000	2	28,000	.08	2,240
Grantee Quarterly Report	70	4	280	2	560
Total	14,070		28,280		2,800

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received by August 18, 2014.

Summer King,

Statistician.

[FR Doc. 2014–14103 Filed 6–16–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0013]

Agency Information Collection Activities: Submission for Review; Information Collection Extension Request for the DHS S&T First Responders Community of Practice Program

AGENCY: Science and Technology Directorate, DHS.

ACTION: 60-day Notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) invites the general public to comment on the data collection form for the DHS Science & Technology (S&T) First Responders Community of Practice (FRCoP): User Registration Page (DHS Form 10059 (9/09)). The FRCoP web based tool collects profile information from first responders and select authorized non-first responder users to facilitate networking and formation of online communities. All users are required to authenticate prior to entering the site. In addition, the tool provides members the capability to create wikis, discussion threads, blogs, documents, etc., allowing them to enter and upload content in accordance with the site's Rules of Behavior. Members are able to participate in threaded discussions and comment on other members' content. The DHS S&T FRCoP program is responsible for providing a collaborative environment for the first responder community to share information, best practices, and lessons learned. Section 313 of the Homeland Security Act of 2002 (Pub. L. 107–296) established this requirement. The program would like to add one more field to the registration. The new field will be titled: Country of First Responder Affiliation. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. Law 104–13, 44 U.S.C. chapter 35).

DATES: Comments are encouraged and will be accepted until August 18, 2014.

ADDRESSES: Interested persons are invited to submit comments, identified by docket number DHS–2012–0013, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Please follow the instructions for submitting comments.
- Email: *Kathy.Higgins@hq.dhs.gov.* Please include docket number DHS–2012–0013 in the subject line of the message.
- Fax: (202) 254–6171. (Not a toll-free number).
- Mail: Science and Technology Directorate, Attn: Chief Information Officer—Rick Stevens, 1120 Vermont Ave., Mail Stop 0202, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: DHS FRCoP Contact Kathy Higgins (202) 254–2293 (Not a toll free number).

SUPPLEMENTARY INFORMATION: DHS S&T currently has approval to collect information utilizing the User Registration Form until October 31, 2013 with OMB approval number 1640–0016. The User Registration Form will be available on the First Responders Community of Practice Web site found at [*https://communities.firstresponder.gov/*]. The user will complete the form online and submit it through the Web site.

The Department is committed to improving its information collection and urges all interested parties to suggest how these materials can further reduce burden while seeking necessary information under the Act.

DHS is particularly interested in comments that:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Renewal of Information Collection.

(2) *Title of the Form/Collection:* First Responders Community of Practice: User Registration Form.

(3) *Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* DHS Science & Technology Directorate, R-Tech (RTD), DHS Form 10059 (09/09).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals; the data will be gathered from individual first responders who wish to participate in the First Responders Community of Practice.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. *Estimate of the total number of respondents:* 2,000.

b. *An estimate of the time for an average respondent to respond:* 0.5 burden hours.

c. *An estimate of the total public burden (in hours) associated with the collection:* 1,000 burden hours.

Dated: May 22, 2014.

Rick Stevens,

Chief Information Officer for Science and Technology.

[FR Doc. 2014–14078 Filed 6–16–14; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5796–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with Section 206A of the National Housing Act, HUD has adjusted the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2014.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Daniel J. Sullivan, Deputy Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 402–6130 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Down Payment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new Section 206A (12 U.S.C. 1712a). Under Section 206A, the following are affected:

I. Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

II. Section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

III. Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

IV. Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

V. Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

VI. Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The Dollar Amounts in these sections are the base per unit statutory limits for FHA's multifamily mortgage programs collectively referred to as the 'Dollar Amounts,' they are adjusted annually (commencing in 2004) on the effective date of the Consumer Financial Protection Bureau's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103–325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Bureau of Consumer Financial Protection for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI–U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI–U is 1.1% and the effective date of the HOEPA adjustment is January 1, 2014. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2014.

The adjusted Dollar Amounts for Calendar Year 2014 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2014

Multifamily Loan Program

☐ Section 207—Multifamily Housing

☐ Section 207 pursuant to Section 223(f)—Purchase or Refinance Housing

☐ Section 220—Housing in Urban Renewal Areas

Bedrooms	Non-Elevator	Elevator
0	$49,181	$56,751
1	54,480	63,561
2	65,075	77,939
3	80,209	97,614
4+	90,806	110,374

☐ Section 213—Cooperatives

Bedrooms	Non-Elevator	Elevator
0	$53,299	$56,751
1	61,454	64,298
2	74,116	78,186
3	94,869	101,148
4+	105,690	111,031

☐ Section 234—Condominium Housing

Bedrooms	Non-Elevator	Elevator
0	$54,387	$57,234
1	62,708	65,611
2	75,628	79,782
3	96,806	103,212
4+	107,846	113,295

☐ Section 221(d)(4)—Moderate Income Housing

Bedrooms	Non-Elevator	Elevator
0	$48,946	$52,871
1	55,560	60,610
2	67,158	73,702
3	84,295	95,345
4+	95,521	104,661

☐ Section 231—Housing for the Elderly

Bedrooms	Non-Elevator	Elevator
0	$46,535	$52,871
1	52,022	60,610
2	62,122	73,702
3	74,760	95,345
4+	87,893	104,661

☐ Section 207—Manufactured Home Parks Per Space—$22,579.

Dated: June 11, 2014.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–14170 Filed 6–16–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–N089; FXES11130200000–145–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Both the Act and the National Environmental Policy Act require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before July 17, 2014.

ADDRESSES: Wendy Brown, Chief, Recovery and Restoration Branch, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6665.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 et seq.) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits. A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–051832

Applicant: Phoenix Zoo, Phoenix, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct husbandry and propagation of San Bernardino (*Pyrgulopsis bernardina*) and Chupadera (*Pyrgulopsis chupaderae*) springsnails at the zoo in Arizona.

Permit TE–800900

Applicant: Lower Colorado River Authority, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of the following species in Texas:

- Black-capped vireo (*Vireo atricapilla*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Houston toad (*Bufo houstonensis*)
- Interior least tern (*Sterna antillarum*)
- Northern aplomado falcon (*Falco femoralis*)
- Piping plover (*Charadrius melodus*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)

Permit TE–830177

Applicant: Anthony Amos, Port Aransas, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct sea turtle stranding and stranding activities and nest detection of the following sea turtles in Texas:

- Kemp's ridley sea turtle (*Lepidochelys kempii*)
- Loggerhead sea turtle (*Caretta caretta*)
- Hawksbill sea turtle (*Eretmochelys imbricata*)
- Green sea turtle (*Chelonia mydas*)
- Leatherback sea turtle (*Dermochelys coriacea*)

Permit TE–236730

Applicant: Timothy Bonner, San Marcos, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species in Texas:

- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Devils River minnow (*Dionda diaboli*)
- Fountain darter (*Etheostoma fonticola*)
- San Marcos gambusia (*Gambusia georgei*)
- San Marcos salamander (*Eurycea nana*)
- Texas wild-rice (*Zizania texana*)

Permit TE–083956

Applicant: Sandy Wolf, Tucson, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of lesser long-nosed bat (*Leptonycteris yerbabuenae*) and Mexican long-nosed bat (*Leptonycteris nivalis*) within Arizona.

Permit TE–815409

Applicant: New Mexico Department of Game and Fish, Santa Fe, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of Jemez Mountain salamander (*Plethodon neomexicanus*) within New Mexico.

Permit TE–35437B

Applicant: U.S.D.A. Forest Service—Santa Fe National Forest, Santa Fe, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of Jemez Mountain salamander (*Plethodon neomexicanus*) within New Mexico.

Permit TE–038055

Applicant: University of New Mexico, Albuquerque, New Mexico.

Applicant requests a renewal to a current permit for research and recovery purposes to collect 450 wild eggs from Rio Grande silvery minnows (*Hybognathus amarus*) in the Rio Grande River, New Mexico.

Permit TE–35438B

Applicant: Anne Bradley, Santa Fe, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of Jemez Mountain salamander (*Plethedon neomexicanus*) within New Mexico.

Permit TE–35440B

Applicant: Bureau of Reclamation—Upper Colorado Region, Albuquerque, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of interior least tern (*Sterna antillarum*) and southwestern willow flycatcher (*Empidonax traillii extimus*) within New Mexico.

Permit TE–004439

Applicant: ABQ BioPark, Albuquerque, New Mexico.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct husbandry, propagation, and holding; and collect from the wild (fish and aquatic invertebrates only) for the following species to be held at the BioPark:

- Alamosa springsnail (*Tryonia alamosae*)
- Colorado pikeminnow (*Ptychocheilus lucius*)
- Gila topminnow (*Poeciliopsis occidentalis*)
- Gila trout (*Oncorhynchus gilae*)
- Green sea turtle (*Chelonia mydas*)
- Hawksbill sea turtle (*Eretmochelys imbricata*)
- Kemp's ridley sea turtle (*Lepidochelys kempii*)
- Loggerhead sea turtle (*Caretta caretta*)
- Pecos bluntnose shiner (*Notropis simus pecosensis*)
- Pecos gambusia (*Gambusia nobilis*)
- Razorback sucker (*Xyrauchen texanus*)
- Rio Grande silvery minnow (*Hybognathus amarus*)
- Socorro isopod (*Thermosphaeroma thermophilum*)
- Socorro springsnail (*Pyrgulopsis neomexicana*)

Permit TE–146407

Applicant: Belaire Environmental, Inc., Rockport, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Loggerhead sea turtle (*Caretta caretta*)
- Hawksbill sea turtle (*Eretmochelys imbricata*)
- Green sea turtle (*Chelonia mydas*)
- Leatherback sea turtle (*Dermochelys coriacea*)
- Whooping crane (*Grus americana*)

Permit TE–840727

Applicant: National Park Service—Padre Island National Seashore, Corpus Christi, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct satellite tracking of adult green (*Chelonia mydas*) and Kemp's ridley (*Lepidochelys kempii*) sea turtles within Texas.

Permit TE–028605

Applicant: SWCA, Inc., Flagstaff, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct the following activities for southwestern willow flycatcher (*Empidonax traillii extimus*): cowbird addling within Arizona, California, and Nevada; and blood and feather collection within Arizona, California, Colorado, New Mexico, Texas, Nevada, and Utah.

Permit TE–676811

Applicant: U.S. Fish and Wildlife Service—Region 2, Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and

recovery purposes to conduct presence/absence surveys of acuña cactus (*Echinomastus erectocentrus* var. *acunensis*), Fickeisen plains cactus (*Pediocactus peeblesianus* var. *fickeiseniae*), Gierisch mallow (*Sphaeralcea gierischii*) within Region 2 of the U.S. Fish and Wildlife Service.

Permit TE–168185

Applicant: Cox/McLain Environmental Inc., Austin, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Attwater's greater prairie-chicken (*Tympanuchus cupido attwateri*)
- Black-capped vireo (*Vireo atricapilla*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Houston toad (*Bufo houstonensis*)
- Interior least tern (*Sterna antillarum*)
- Northern aplomado falcon (*Falco femoralis*)
- Piping plover (*Charadrius melodus*)
- Red-cockaded woodpecker (*Picoides borealis*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)

Permit TE–168185

Applicant: SWCA Inc., Austin, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Texas:

- Austin blind salamander (*Eurycea rathbuni*)
- Barton Springs salamander (*Eurycea sosorum*)
- Bee Creek Cave harvestman (*Texella reddelli*)
- Black-capped vireo (*Vireo atricapilla*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Gray bat (*Myotis grisescens*)
- Ground beetle (Unnamed) (*Rhadine exilis)*
- Ground beetle (Unnamed) (*Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Fountain darter (*Etheostoma fonticola*)
- Houston toad (*Bufo houstonensis*)
- Indiana bat (*Myotis sodalis*)
- Interior least tern (*Sterna antillarum*)
- Madla Cave meshweaver (*Cicurina madla*)
- Northern aplomado falcon (*Falco femoralis*)
- Ocelot (*Leopardus pardalis*)
- Piping plover (*Charadrius melodus*)
- Red-cockaded woodpecker (*Picoides borealis*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- San Marcos salamander (*Eurycea nana*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta* (=*Leptoneta*) *myopica*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Whooping crane (*Grus americana*)

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: May 30, 2014.

Benjamin N. Tuggle,

Regional Director, Southwest Region.

[FR Doc. 2014–14097 Filed 6–16–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–NWRS–2012–0092; FXRS 84510900000–134–FF09R20000]

RIN 1018–AY36

Policy on Donations, Fundraising, and Solicitation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that it has established a policy that covers Service procedures for accepting, using, and recognizing donations. This donations policy is an extension of the Department of the Interior's guidance on donations, found in the Departmental Manual (DM) at 374 DM 6. The donations policy establishes procedures for reviewing and evaluating potential donors and donations. It lists delegations of authority for accepting donations and the roles and responsibilities of the Service's Donations Senior Manager and employees authorized to accept donations. It provides guidance on soliciting donations, where appropriate, and provides general guidance on fundraising by non-Federal entities on the Service's behalf. It focuses on the ethical considerations of all types of donations, as opposed to our Fish and Wildlife Service Manual (FW) guidance, 342 FW 5, Non-Purchase Acquisition, which covers the acquisition of real property rights by methods other than purchase, including donation.

DATES: This policy is effective as of May 1, 2014.

ADDRESSES: You may obtain copies of this final policy at *http://www.fws.gov/policy/manuals.* The final policy and comments are available at *http://www.regulations.gov* at Docket No. FWS–HQ–NWRS–2012–0092. Alternatively, you may request a copy by U.S. mail from USFWS, Division of Realty, 4401 N. Fairfax Drive, Suite 622, Arlington, Virginia 22203 (see **FOR FURTHER INFORMATION CONTACT**). They are also available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Janet Bruner, 703–358–1713.

SUPPLEMENTARY INFORMATION:

Introduction

We have established a final donations policy, which is available at *http://www.fws.gov/policy/manuals.* We have incorporated this policy as part 212, chapter 8, of the Fish and Wildlife

Service Manual. The purpose of this policy is to establish policy for accepting, using, and recognizing donations. The policy includes procedures for reviewing and evaluating potential donors and donations, as well as guidance on soliciting donations and fundraising.

Background

The Department of the Interior issued ''ETHICS AND CONDUCT, Employee Responsibilities and Conduct, Donations'' (374 DM 6) in 2007. This guidance requires all Interior bureaus to develop their own policy on donations.

Several authorities allow various types of donations, including real and personal property, services, and money. These include the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), which allows acceptance of funds or lands, pending State approval. A later amendment to the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) allows the Service to accept real and personal property donations. Other authorities cited in this donations policy include the Partnerships for Wildlife Act (16 U.S.C. 3741); Alaska National Interest Lands Conservation Act (16 U.S.C. 3101); Migratory Bird Conservation Act, as amended (16 U.S.C. 715–715r); National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998, as amended (16 U.S.C. 742f); Great Lakes Fisheries Act of 1956 (16 U.S.C. 932); and the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(b)(2)).

In addition to those broader authorities, individual units of the National Wildlife Refuge System or the National Fish Hatchery System may have specific legislative authority to accept donations. This donations policy is in keeping with statutory requirements as well as with the aforementioned Departmental guidance, 374 DM 6.

Final Policy

We recognize the value of donations, but also the potential problems with accepting them. This policy covers the ethical considerations for donations, fundraising, and solicitation. While donations can be a means to further our mission, not all donations are appropriate. This policy provides consistent procedures for evaluating potential donors and donations to determine if acceptance is appropriate. The policy also helps the reader determine who has authority to accept appropriate donations. That authority depends on the type (real property or non-real property) and the monetary value of the donation.

This policy also covers soliciting donations and fundraising. Those activities are primarily done by Friends groups, which are groups of volunteers who support specific refuges. The donations policy lists the limited circumstances when Service employees may solicit donations. It describes inappropriate fundraising activities and also mentions grant applications and acceptance.

Recognizing donors is very important. This policy also contains information on that, including a template for a thank-you letter.

Summary of Comments and Changes to the Final Policy

On January 15, 2013, we announced the draft policy and requested public comments via a **Federal Register** notice (78 FR 3023). The comment period was open from January 15, 2013, through February 15, 2013. We received 14 comment letters on the draft policy. The letters included 69 individual comments on the draft policy. The comments were from Federal government agencies, nongovernmental organizations, and individuals. Most of the comments addressed specific elements, while some comments expressed general support, without addressing specific elements. We considered all of the information and recommendations for improvement included in the comments and made appropriate changes to the draft policy. We also made some additions and clarifications to the policy that were not addressed in the public comments, but were discovered through internal briefings and reviews during the policy revision period.

Dated: May 27, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–14102 Filed 6–16–14; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–877]

Certain Omega-3 Extracts From Marine or Aquatic Biomass and Products Containing the Same; Commission Determination Not To Review an Initial Determination Granting a Joint Motion to Terminate the Investigation Based on a Settlement and License Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 48) granting a joint motion to terminate the above-captioned investigation based on a settlement and license agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 17, 2013, based on a complaint filed on January 29, 2013, as amended on March 21, 2013, and supplemented on April 1, 2013, on behalf of Neptune Technologies & Bioressources Inc. and Acasti Pharma Inc., both of Laval, Quebec, Canada (collectively, ''Complainants''). 78 *Fed. Reg.* 22898 (April 17, 2013). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of one or more claims of U.S. Patent Nos. 8,278,351 and 8,383,675. The

Commission's notice of investigation named as respondents Aker BioMarine AS of Oslo, Norway; Aker BioMarine Antarctic USA, Inc. of Issaquah, Washington; Aker BioMarine Antarctic AS of Stamsund, Norway (collectively, ''the Aker Respondents''); Olympic Seafood AS of Fosnavag, Norway; Olympic Biotec Ltd. of New Zealand; Avoca, Inc. of Merry Hill, North Carolina; Rimfrost USA, LLC of Merry Hill, North Carolina; Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada (collectively, ''the Olympic Respondents''); Enzymotec Ltd. of Industrial Zone K'far Baruch, Israel; and Enzymotec USA, Inc. of Morristown, New Jersey (collectively, ''the Enzymotec Respondents'').

The Olympic Respondents were terminated from the investigation on the basis of a settlement agreement on November 5, 2013 (Order No. 31, affirmed by the Commission on December 17, 2013). The Aker Respondents were terminated from the investigation on the basis of a settlement agreement on December 17, 2013 (Order No. 40, not reviewed by the Commission on January 15, 2014).

On May 2, 2014, Complainants and the Enzymotec Respondents filed a joint motion to terminate the investigation based on a settlement and license agreement. On May 13, 2014, the ALJ issued the subject ID (Order No. 48) granting the joint motion to terminate the investigation. No petitions for review were filed.

After considering the subject ID and the relevant portions of the record, the Commission has determined not to review the subject ID. The Commission agrees with the ALJ that the joint motion to terminate the investigation complies with the Commission's rules for termination and that the settlement does not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 12, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–14147 Filed 6–16–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1021 (Second Review)]

Malleable Iron Pipe Fittings From China Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on malleable iron pipe fittings from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2014, the Commission determined that the domestic interested party group response to its notice of institution (79 FR 11819, March 3, 2014) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on July 2, 2014, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written Submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before July 8, 2014 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by July 8, 2014. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Anvil International LLC and Ward Manufacturing to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 12, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–14148 Filed 6–16–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–991 (Second Review)]

Silicon Metal From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on June 3, 2013 (78 FR 33064) and determined on September 6, 2013 that it would conduct a full review (78 FR 61384, October 3, 2013). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 19, 2013 (78 FR 76856). The hearing was cancelled, on April 7, 2014 (79 FR 19921, April 10, 2014).

The Commission completed and filed its determination in this review on June 11, 2014. The views of the Commission are contained in USITC Publication 4471 (June 2014), entitled *Silicon Metal from Russia: Investigation No. 731–TA–991 (Second Review).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Rhonda K. Schmidtlein did not participate in the vote.

Issued: June 12, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–14146 Filed 6–16–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: CATALENT CTS, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before July 17, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before July 17, 2014.

ADDRESS: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on May 7, 2014, Catalent CTS, LLC, 10245 Hickman Mills Drive, Kansas City, Missouri 64137, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Poppy Straw Concentrate (9670)	II

The company plans to import a finished pharmaceutical product containing cannabis extracts in dosage form for a clinical trial study.

In reference to drug code 7360, the company plans to import a synthetic cannabidiol. This compound is listed under drug code 7360. No other activity for this drug code is authorized for this registration.

In addition, the company plans to import an ointment for the treatment of wounds which contain trace amounts of the controlled substances normally found in poppy straw concentrate for packaging and labeling to be used in clinical trials.

Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14123 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: ALKERMES GAINESVILLE LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before July 17, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before July 17, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and

dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on May 8, 2014, Alkermes Gainesville LLC, 1300 Gould Drive, Gainesville, Georgia 30504, applied to be registered as an importer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the above listed controlled substance for analytical research and testing.

The import of the above listed basic class of controlled substance would be granted only for analytical testing and clinical testing. This authorization does not extend to the import of a finished Food and Drug Administration approved or non-approved dosage form for commercial distribution in the United States.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14145 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: MEDA PHARMACEUTICALS, INC.

ACTION: Notice of Application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before July 17, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before July 17, 2014.

ADDRESS: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on December 9, 2013, Meda Pharmaceuticals, Inc., 705 Eldorado Street, Decatur, Illinois 62523, applied to be registered as an importer of Nabilone (7379), a basic class of non-narcotic controlled substance listed in schedule II.

The company plans to import the FDA approved listed controlled substance as a finished drug product in dosage form for distribution to its customers.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14150 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: CODY LABORATORIES, INC.

ACTION: Notice of Registration.

SUMMARY: Cody Laboratories, Inc. applied to be registered as an importer of certain basic classes of narcotic or non-narcotic controlled substances. The DEA grants Cody Laboratories, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated December 31, 2013, and published in the **Federal Register** on January 10, 2014, 79 FR 1888, Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414–9321, applied to be registered as an importer of certain basic classes of narcotic or non-narcotic controlled substances.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Cody Laboratories, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verified the company's compliance with state and local laws, and reviewed the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of narcotic or non-narcotic controlled substances listed:

Controlled substance	Schedule
Phenylacetone (8501)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import narcotic raw materials for manufacturing and further distribution to its customers. The company is registered with the DEA as a manufacturer of several controlled substances that are manufactured from poppy straw concentrate.

The company plans to import an intermediate form of tapentadol (9780), to bulk manufacture tapentadol for distribution to its customers.

Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007).

In reference to the non-narcotic raw material, no comments or objections have been received.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14151 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: STEPAN COMPANY

ACTION: Notice of registration.

SUMMARY: Stepan Company applied to be registered as an importer of a basic class of a narcotic controlled substance. The DEA grants Stepan Company

registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 1, 2014, and published in the **Federal Register** on May 15, 2014, FR 79 27935, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, applied to be registered as an importer of a certain basic class of controlled substance.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Stepan Company to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of Coca Leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance to manufacture bulk controlled substance for distribution to its customers.

Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14137 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: CEDARBURG PHARMACEUTICALS, INC.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 18, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on May 4, 2014, Cedarburg Pharmaceuticals, Inc., 870 Badger Circle, Grafton, Wisconsin 53024, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Remifentanil (9739)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Regarding the drug code (8333), the company plans to manufacture this listed controlled substance for commercial sale.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14143 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals LLC

ACTION: Notice of Application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 18, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on May 21, 2014, AMPAC Fine Chemicals LLC, Highway 50 and Hazel Avenue, Building 05001, Rancho Cordova, California 95670, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Thebaine (9333)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company is a contract manufacturer. In reference to Poppy Straw Concentrate, the company will manufacture Thebaine intermediates for sale to its customers for further manufacture. No other activity for this drug code is authorized for this registration.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14125 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AUSTIN PHARMA, LLC

ACTION: Notice of Correction.

In **Federal Register** document (FR DOC) 2014–12944, on page 32322, in the issue of Wednesday, June 4, 2014, make the following correction:

On page 32322, in the second column, the third paragraph, the first sentence should read as follows:

In reference to drug code 7360, the company plans to manufacture synthetic cannabidiol in bulk for sale to its customers.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14144 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Euticals, Inc.

ACTION: Notice of Application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before August 18, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on February 5, 2014, Euticals, Inc., 2460 W. Bennett Street, Springfield, Missouri 65807–1229, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methadone (9250)	II
Oripavine (9330)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers.

Dated: June 10, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–14124 Filed 6–16–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Records of Tests and Examinations of Mine Personnel Hoisting Equipment

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Records of Tests and Examinations of Mine Personnel Hoisting Equipment,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 17, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201403-1219-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Records of Tests and Examinations of Mine Personnel Hoisting Equipment information collection. Various MSHA regulations make it mandatory for a covered mine operator to make and maintain records of specific tests and inspections of mine personnel hoisting systems, including wire ropes, to ensure each system remains safe to operate while in use. Mine Safety and Health Act of 1977 section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0034.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2014. The DOL seeks to extend PRA authorization for this information

collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 27, 2014 (79 FR 11127).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0034. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Records of Tests and Examinations of Mine Personnel Hoisting Equipment.

OMB Control Number: 1219–0034.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 250.

Total Estimated Number of Responses: 71,715.

Total Estimated Annual Time Burden: 5,989 hours.

Total Estimated Annual Other Costs Burden: $300,000.

Dated: June 11, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–14093 Filed 6–16–14; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Request for a New Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for Comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. NCUA is appointed Liquidating Agent of a credit union when a credit union is placed into liquidation. NCUA is required to notify creditors (of the liquidated credit union) that they need to submit a claim to NCUA's Asset Management & Assistance Center (AMAC). This is a one-time requirement of which creditors will respond via the Proof of Claim form.

DATES: Comments will be accepted until August 18, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is requesting comments on this new proposed collection. Section 709.4(b) of the NCUA Rules and Regulations (12 CFR 709) requires the liquidating agent to publish notice to creditors, instructing creditors to present their claims to the liquidating agent by a specified date. The collection of information requirement is that those creditors making a claim must document their claim and submit it to the liquidating agent. The information is used by NCUA to determine if a claim has been made against a liquidated credit union. Entities would be notified of the need to submit a claim via a letter sent directly to them, a published notice or via the NCUA Web site. Generally, one entity would have one claim against a credit union placed into liquidation. The liquidating agent would use the submitted form to determine a claim had been filed and evaluate it for payment. The information requested by this collection is required to be supplied only once by each creditor making a claim. The timeline for submitting claims is covered by statute.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Proof of Claim Form and Instructions.

OMB Number: 3133—NEW.

Form Number: None.

Type of Review: New collection.

Description: Section 709.4(b) of the NCUA Rules and Regulations (12 CFR 709) requires the liquidating agent to publish notice to creditors, instructing creditors to present their claims to the liquidating agent by a specified date via use of the Proof of Claim form. The information requested is required to be supplied only once by each creditor making a claim.

Respondents: Creditors making a claim against a liquidated credit union.

Estimated No. of Respondents/Recordkeepers: 200.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 200 hours.

Estimated Total Annual Cost: $10,000.

By the National Credit Union Administration Board on: June 9, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–14069 Filed 6–16–14; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub .L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. Financial and statistical information is collected on a monthly basis and is used by NCUA to monitor financial and statistical trends in corporate credit unions and to allocate examination and supervision resources.

DATES: Comments will be accepted until July 17, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Reviewer: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending/reinstating the collection for 3133–0067. The Federal Credit Union Act, 12 U.S.C. 1782(a)(1), requires federally insured credit unions to make reports of condition to the NCUA Board upon dates the Board selects. NCUA collects the financial and statistical information on a monthly basis and uses it to monitor financial and statistical trends in corporate credit unions and to allocate examination and supervision resources. If this information was not collected, NCUA would not be able to effectively fulfill its primary mission of regulating and supervising credit unions. The burden on the industry continues to decline as a result of mergers of corporate credit unions.

NCUA is proposing to replace the software with an online application as part of CU Online. This will allow corporate credit unions the ability to access the application from any location as well as reduce the administrative burden and cost associated with the installation and maintenance of the previous credit union software.

NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Corporate Credit Union Monthly Call Report.

OMB Number: 3133–0067.

Form Number: NCUA 5310.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: NCUA utilizes the information to monitor financial conditions in corporate credit unions, and to allocate supervision and examination resources.

Respondents: Corporate credit unions, or ''banker's banks'' for natural person credit unions.

Estimated No. of Respondents/Record Keepers: 15.

Estimated Burden Hours per Response: 8 hours.

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 1,440 hours.

Estimated Total Annual Cost: $72,000.

By the National Credit Union Administration Board on June 9, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–14080 Filed 6–16–14; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for Comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. Contact information is collected from corporate credit unions to allow for supervision and communication.

DATES: Comments will be accepted until July 17, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Reviewer: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending/reinstating the collection for 3133–0053. The Federal Credit Union Act, 12 U.S.C. 1762, specifically requires a federal credit

union to report the identity of credit union officials. Section 748.1(a) of the NCUA Rules and Regulations requires federally insured credit unions to submit a Report of Officials annually to NCUA containing the annual certification of compliance with security requirements. The branch information is requested under the authority of Section 741.6 of the NCUA Rules and Regulations. This particular collection of information is for the Report of Officials of corporate credit unions. The information is used for the supervision of and communication with corporate credit unions.

NCUA is proposing to replace the software with an online application as part of CU Online. This will allow corporate credit unions the ability to access the application from any location as well as reduce the administrative burden and cost associated with the installation and maintenance of the previous credit union software.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Corporate Report of Officials.
OMB Number: 3133–0053.
Form Number:
Type of Review: Reinstatement, with change, of a previously approved collection.
Description: NCUA utilizes the information to collect contact information for corporate credit unions.
Respondents: Corporate credit unions, or ''banker's banks'' for natural person credit unions.
Estimated No. of Respondents/Record keepers: 15.
Estimated Burden Hours per Response: 1 hour.
Frequency of Response: Annual.
Estimated Total Annual Burden Hours: 15 hours.
Estimated Total Annual Cost: $750.

By the National Credit Union Administration Board on June 4, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–14076 Filed 6–16–14; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meetings

DATES: Weeks of June 16, 23, 30, July 7, 14, 21, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of June 16, 2014

Tuesday, June 17, 2014

9:30 a.m. Strategic Programmatic Overview of the Operating Reactors Business Line (Public Meeting), (Contact: Trent Wertz, 301–415–1568).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

4:00 p.m. Briefing on Security Issues (Closed—Ex. 1)

Thursday, June 19, 2014

9:00 a.m. Briefing on NFPA 805 Fire Protection (Public Meeting), (Contact: Barry Miller, 301–415–4117).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of June 23, 2014—Tentative

There are no meetings scheduled for the week of June 23, 2014.

Week of June 30, 2014—Tentative

There are no meetings scheduled for the week of June 30, 2014.

Week of July 7, 2014—Tentative

There are no meetings scheduled for the week of July 7, 2014.

Week of July 14, 2014—Tentative

Tuesday, July 15, 2014

9:00 a.m. Briefing on Nuclear Power Plant Decommissioning (Public Meeting), (Contact: Louise Lund, 301–415–3248).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Thursday, July 17, 2014

9:00 a.m. Briefing on Radiation Source Protection and Security (Part 1) (Public Meeting), (Contact: Kim Lukes, 301–415–6701).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

10:35 a.m. Briefing on Radiation Source Protection and Security (Part 2) (Closed—Ex. 9), (Contact: Kim Lukes, 301–415–6701).

Week of July 21, 2014—Tentative

There are no meetings scheduled for the week of July 21, 2014.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov*.

Dated: June 12, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–14180 Filed 6–13–14; 11:15 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72373]

Public Availability of the Securities and Exchange Commission's FY 2013 Service Contract Inventory

AGENCY: U.S. Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), SEC is publishing this notice

to advise the public of the availability of the FY2013 Service Contract Inventory (SCI) and the FY2012 SCI Analysis. The SCI provides information on FY2013 actions over $25,000 for service contracts. The inventory organizes the information by function to show how SEC distributes contracted resources throughout the agency. SEC developed the inventory per the guidance issued on November 5, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The Service Contract Inventory Analysis for FY2012 provides information based on the FY 2012 Inventory. The SEC has posted its inventory, a summary of the inventory and the FY2012 analysis on the SEC's homepage at *http://www.sec.gov/about/secreports.shtml* and *http://www.sec.gov/open*

FOR FURTHER INFORMATION CONTACT: Direct questions regarding the service contract inventory to Vance Cathell, Director, Office of Acquisitions, (202) 551–8385 or *CathellV@sec.gov.*

Dated: June 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14101 Filed 6–16–14; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2014–0035]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Social Security Administration (SSA).

ACTION: Proposed New System of Records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a) we are issuing public notice of our intent to establish a new system of records entitled, *Requests for Accommodation from Members of the Public* (60–0378), hereinafter referred to as the *RAMP* system. We are establishing the *RAMP* system to cover information we receive from members of the public with disabilities who request accommodations in order to gain meaningful access to our programs.

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) provides that no otherwise qualified individual with a disability will, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency. Section 504 protects ''qualified individuals with disabilities,'' as defined in 45 CFR part 85, as ''persons with a physical or mental impairment that substantially limits one or more major life activities.'' Agencies are required to take appropriate steps to ensure that qualified individuals with a disability are not denied access to the programs and activities the agency conducts because of their disabilities. To ensure compliance with Section 504, the agency may need to provide auxiliary aids or services or modifications to the way it conducts its programs. We will provide accommodations based on five broad categories of impairments: Blind or visual; cognitive or learning; deaf or hard of hearing; mobility or physical; and psychological or emotional. However, individuals who have other types of disabilities may also request an accommodation.

We will use the information we collect to provide accommodations to qualified individuals with disabilities, to provide management information to the agency, and for research and statistical purposes.

DATES: We invite public comment on this new system of records. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments. Therefore, please submit any comments by July 17, 2014.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrea Huseth, Government Information Specialist, Disclosure and Data Support Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 965–6868, email: *andrea.huseth@ssa.gov.*

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this new system of records.

Dated: June 11, 2014.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

SOCIAL SECURITY ADMINISTRATION

SYSTEM NUMBER:

60–0378.

SYSTEM NAME:

Requests for Accommodation from Members of the Public (RAMP).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Requests for accommodation may be established initially and maintained in any Social Security office, e.g., field offices, program service centers, and Office of Disability and Adjudication Review hearing offices and the Appeals Council. Telephone and address information for Social Security offices is available in local telephone directories under Social Security Administration (SSA). In addition, we maintain requests for accommodation electronically at the following address: Social Security Administration, Office of Systems Operations, 6401 Security Boulevard, Baltimore, MD 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about members of the public with disabilities who request an accommodation from the agency in order to have access to the agency's services and programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security number, if available; contact information; description of the requestor's condition (disability or impairment); explanation as to why we cannot satisfy or resolve the request with one of our standard accommodations; accommodation the requestor prefers and any alternative accommodations that will work for the requestor; correspondence to and from the requestor; additional information required to coordinate the accommodation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which provides that no otherwise qualified individual with a disability will, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency.

PURPOSE(S):

We will use the information in this system to process requests for both standard and nonstandard accommodations from members of the public. The information will allow us to track requests, approve and deny requests, communicate with the requestor, compile management information, and conduct research and statistics activities related to our 504 program.

ROUTINE USES OF RECORDS COVERED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the Department of Justice (DOJ) or other Federal and State agencies when necessary for the administration or enforcement of civil rights laws or regulations.

2. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or someone acting on the subject's behalf.

3. To the Office of the President, for responding to an inquiry received from the subject of the records or a third party acting on the subject's behalf.

4. To DOJ, a court or other tribunal, or another party before such tribunal, when:

(a) The Social Security Administration (SSA), or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components, is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation.

5. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.

6. To contractors and Federal, State, or local agencies, as necessary, to assist SSA in providing accommodations to members of the public seeking access to our programs and activities, in compliance with Section 504 of the Rehabilitation Act of 1973. We will disclose information under this routine use pursuant only to a written agreement between SSA and that contractor or agency.

7. To Federal, State and local law enforcement agencies and private security contractors as appropriate, if information is necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities; or

(b) to assist in investigations or prosecutions with respect to activities that disrupt the operation of SSA facilities.

8. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

9. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) We suspect or confirm that the security or confidentiality of information in this system of records has been compromised;

(b) we determine that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs of SSA that rely upon the compromised information; and

(c) we determine that disclosing the information to such agencies, entities, and persons is necessary to assist in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

10. To contractors, grantees, other entities (e.g., universities or nonprofits), state agencies, and other Federal agencies for the purpose of performing research and statistics activities to assist SSA in the efficient administration of its programs. We will disclose information under this routine use pursuant only to a written agreement with SSA.

11. To Federal, State, or local agencies (or agents on their behalf) for providing accommodations to members of the public in compliance with Section 504 of the Rehabilitation Act of 1973, when that agency is administering cash or non-cash income maintenance or health maintenance programs (including programs under the Social Security Act).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

We will maintain records in this system in paper and electronic form.

RETRIEVABILITY:

We will retrieve records by social security number (SSN), name, or both SSN and name.

SAFEGUARDS:

We retain electronic and paper files with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include the use of access codes (personal identification number (PIN) and password) to enter our computer systems that house the data. We keep paper records in locked cabinets or in other secure areas.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RETENTION AND DISPOSAL:

The accommodation request records are retained in accordance with the approved National Archives and Records Administration Records Schedule NI–047–10–004.

SYSTEM MANAGER(S) AND ADDRESS:

Social Security Administration, Office of Human Resources, Office of Civil Rights and Equal Opportunity, Center for Section 504 Compliance, 1500 Annex, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURES:

Individuals can determine if this system contains a record about them by writing to the system manager at the above address and providing their name, SSN, or other information that may be in this system of records that will identify them. Individuals requesting notification by mail must include a notarized statement to us to verify their identity or must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful

request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification by telephone must verify their identity by providing identifying information that parallels the information in the record about which notification is sought. If we determine that the identifying information the individual provides by telephone is insufficient, we will require the individual to submit a request in writing or in person. If an individual requests information by telephone on behalf of another individual, the subject individual must be on the telephone with the requesting individual and with us in the same phone call. We will establish the subject individual's identity (his or her name, SSN, address, date of birth, and place of birth, along with one other piece of information such as mother's maiden name), and ask for his or her consent to provide information to the requesting individual. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Individuals must also reasonably specify the record contents they are seeking. These procedures are in accordance with our regulations at 20 CFR 401.40(c).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

RECORD SOURCE CATEGORIES:

We obtain information in this system from members of the public who request an accommodation, third parties requesting an accommodation on another's behalf, and other SSA systems of record, e.g., the Electronic Disability (eDib) Claim File, 60–0320.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2014–14042 Filed 6–16–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 8766]

30-Day Notice of Proposed Information Collection: Birth Affidavit

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 17, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520, who may be reached on (202) 485–6373 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Birth Affidavit.
- *OMB Control Number:* 1405–0132.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, Program Coordination Division (CA/PPT/S/PMO/PC).
- *Form Number:* DS–10.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 21,585 per year.
- *Estimated Number of Responses:* 21,585 per year.
- *Average Time Per Response:* 40 minutes.
- *Total Estimated Burden Time:* 14,390 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Birth Affidavit is submitted in conjunction with an application for a U.S. passport, and is used by Passport Services to collect information for the purpose of establishing the U.S. nationality of a passport applicant who has not submitted an acceptable United States birth certificate with his/her passport application. The Secretary of State is authorized to issue U.S. passports under 22 U.S.C. § 211a et seq, 8 U.S.C. § 1104, and Executive Order 11295 (August 5, 1966). Pursuant to 22 U.S.C. § 212 and 22 CFR § 51.2, only U.S. nationals may be issued a U.S. passport. Most passport applicants show U.S. nationality by providing a birth certificate showing the applicant was born in the United States. Some applicants, however, may have been born in the United States (and subject to its jurisdiction), but were never issued

a birth certificate. Form DS–10 is a form affidavit for completion by a witness to the birth of such an applicant; it collects information relevant to establishing the identity of the affiant, and the birth circumstances of the passport applicant. If credible, the affidavit may permit the applicant to show U.S. nationality based on the applicant's birth in the United States, despite never having been issued a U.S. birth certificate. We use the information collected on the person completing the affidavit to confirm that individual's identity, which is relevant to confirming his or her relationship to the applicant and the likelihood that the affiant has actual knowledge of the circumstances of the applicant's birth.

Methodology

When needed, a Birth Affidavit is completed at the time a person applies for a U.S. passport.

Dated: June 10, 2014.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–14159 Filed 6–16–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–37]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 27, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0330 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Sandra K. Long, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 11, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0330.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.1305(c)(5).

Description of Relief Sought: Petitioner seeks time-limited relief from 14 CFR 25.1305(c)(5) at amendment 25–120 in support of Certification Plan 15053, for the power plant ice protection system indication requirement on Boeing Model 787–8 and 787–9 airplanes equipped with GEnx-1B/B175 engines.

[FR Doc. 2014–14086 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–38]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 27, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0299 using any of the following methods:

- *Government-Wide Rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or

signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email mark.forseth@faa.gov, phone (425) 227–2796; or Sandra K. Long, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 11, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2014–0299.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.1305(c)(5).

Description of Relief Sought:

Petitioner seeks time-limited relief from 14 CFR 25.1305(c)(5) at amendment 25–120 in support of Certification Plan 15053, for the power plant ice protection system indication requirement on the Boeing Model 747–8 and 747–8F airplanes equipped with GEnx–2B engines.

[FR Doc. 2014–14085 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0023]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on April 1, 2014. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 17, 2014.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2014–0023.

FOR FURTHER INFORMATION CONTACT: David Jones, 202–366–5053, Federal Highway Administration, Department of Transportation, Office of Highway Policy Information, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Travel Monitoring Analysis System (TMAS), *formerly Heavy Vehicle Travel Information System (HVTIS).*

OMB Control Number: 2125–0587.

Background: Title 49, United States Code, Section 301, authorizes the DOT to collect statistical information relevant to domestic transportation. The FHWA is continuing to develop the TMAS to house data that will enable analysis of the amount and nature of truck travel at the national and regional levels. The information will be used by the FHWA and other DOT agencies to evaluate changes in truck travel in order to assess impacts on highway safety; the role of travel in economic productivity; impacts of changes in truck travel on infrastructure condition; and maintenance of our Nation's mobility while protecting the human and natural environment. The increasing dependence on truck transport requires that data be available to better assess its overall contribution to the Nation's well-being. In conducting the data collection, the FHWA will be requesting that State Departments of Transportations (SDOTs) provide reporting of traffic volume, vehicle classification, and vehicle weight data which they collect as part of their existing traffic monitoring programs, including other sources such as local governments and traffic operations. States and local governments collect traffic volume, vehicle classification data, and vehicle weight data throughout the year using weigh-in-motion devices. The data should be representative of all public roads within State boundaries. The data will allow transportation professionals at the Federal, State, and metropolitan levels to make informed decisions about policies and plans.

Respondents: 52 SDOTs, including the District of Columbia and Puerto Rico.

Frequency: Annually.

Estimated Average Burden per Response: Each of the SDOTs already collect traffic data for various purposes. In accordance with 23 U.S.C. 303, each State has a Traffic Monitoring System in place so the data collection burden relevant for this notice is the additional burden for each State to provide a copy of their traffic data using the record formats specified in the *Traffic Monitoring Guide.* Automation and online tools continue to be developed in support of the TMAS and the capability now exists for online submission and validation of total volume data. The estimated average monthly burden is 3.5 hours for an annual burden of 42 hours. The annual reporting requirement is estimated to be 6 hours for the States and the District of Columbia and Puerto Rico. The combined burden from the monthly and annual reports is 48 hours per respondent.

Estimated Total Annual Burden Hours: Total burden will be 2,496 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 11, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–14099 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2013–0034]

Notice of Buy America Waiver for a Variable Refrigerant Flow HVAC System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to the Rock Island County Metropolitan Mass Transit District's (MetroLINK) request for a Buy America waiver for a Variable Refrigerant Flow (VRF) HVAC system, the Federal Transit Administration (FTA) hereby waives its Buy America requirements for the VRF HVAC system to be installed in MetroLINK's Rock Island Transfer Station. This waiver is limited to a single procurement for the VRF HVAC system for the Rock Island Transfer Station project, an FTA-funded project.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a non-availability waiver for MetroLINK's procurement of a VRF HVAC system for its Rock Island Transfer Station.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product must take place in the United States; and (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On February 18, 2014, FTA published a notice in the **Federal Register** requesting comments on MetroLINK's request for a non-availability waiver for a VRF HVAC system that will be installed into its passenger transfer facility in Rock Island, Illinois, the Rock Island Transfer Station. 79 FR 9313. FTA selected this project for award of fiscal year 2011 funding made available pursuant to the Bus and Bus Facilities Program (49 U.S.C. 5309(b)) in support of U.S. Department of Transportation's (DOT) Livability Initiative and the Partnership for Sustainable Communities between the U.S. DOT, the U.S. Department of Housing and Urban Development, and the U.S. Environmental Protection Agency (Bus Livability Program). Among other things, FTA selected each project for the Bus Livability Program based upon whether it would promote a more environmentally sustainable transportation system. 76 FR 37393, 37397 (June 27, 2011); *see also* 76 FR 68813 (Nov. 7, 2011). More specifically, FTA assessed the project's ability to ''maintain, protect or enhance the environment, as evidenced by environmentally friendly policies and practices utilized in the project design, construction, and operation that exceed the requirements of the National Environmental Policy Act including items such as whether the project uses a [U.S. Green Building Council] Leadership in Energy and Environmental Design (LEED)-certified design. . . .'' 76 FR at 37397.

MetroLINK's Rock Island Transfer Station is expected to be LEED-certified and will incorporate a number of sustainable and energy efficient elements. One such element is a VRF HVAC system that, among other things, is space saving, has invertor technology, efficiency, and a non-ozone depleting refrigerant that domestic manufacturers of HVAC systems do not provide. MetroLINK stated in its request that this VRF HVAC system is critical in obtaining the LEED points necessary to achieve the Silver certification (or better) that it is seeking. Thus, MetroLINK specified the brands ''Daikin AC'' and ''Mitsubishi,'' or approved equal, but MetroLINK has been unable to identify a domestic manufacturer of the VRF HVAC system that meets its specifications.

The comment period closed on March 4, 2014, but FTA took into consideration the one comment it received from Mitsubishi Electric US, Inc. on March 7, 2014. This commenter supports a waiver and reiterated the non-availability of this type of HVAC system in the United States and the advantages of such a system.

Based upon MetroLINK's assertions that it is unable to procure a U.S.-manufactured VRF HVAC system, which is critical in obtaining the LEED points necessary to achieve the Silver certification (or better) that it is seeking, and the comment on the advantages of a VRF HVAC system, FTA hereby waives its Buy America requirement for manufactured products under 49 CFR 661.5(d) for the VRF HVAC system.[1] This waiver is limited to a single procurement for the VRF HVAC system for the Rock Island Transfer Station project.

Dana C. Nifosi,

Deputy Chief Counsel.

[FR Doc. 2014–14087 Filed 6–16–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement (EIS) on Central Broward East-West Transit Analysis in Broward County, FL

AGENCY: Federal Transit Administration, DOT.

ACTION: Rescind Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Florida Department of Transportation (FDOT), is issuing this notice to advise the public that the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed public transportation improvement project in Broward County, Florida is being rescinded.

FOR FURTHER INFORMATION CONTACT: Mr. Andres Ramirez, General Engineer, Federal Transit Administration Region IV, 230 Peachtree Street NW., Atlanta, GA 30303, phone 404–865–5611, email *andres.ramirez@dot.gov.*

[1] Note that a similar Buy America non-availability waiver was issued on June 22, 2010 by the U.S. Department of Energy (DOE) for the same VRF HVAC system. 75 FR 35447. According to MetroLINK, the U.S. DOE's determination of inapplicability (U.S. DOE's Buy America waiver for non-availability) of the American Reinvestment and Recovery Act of 2009 to the same VRF HVAC system indicates the continued non-availability of this product.

SUPPLEMENTARY INFORMATION: The FTA, as the lead federal agency, in cooperation with FDOT published a NOI in the **Federal Register** on September 2, 2008 (73 FR 51338) to prepare an EIS for improved transit services in the Central Broward East-West Corridor between Sawgrass Mills/Bank Atlantic Center and the Fort Lauderdale-Hollywood International Airport through Downtown Fort Lauderdale.

Since that time, FTA and the FDOT have decided to re-evaluate the transportation improvement project in terms of scope and alternatives beyond what was originally considered. Therefore, the FTA has determined that the NOI for the EIS will be rescinded.

Comments and questions concerning the proposed action should be directed to FTA at the address provided above.

Yvette G. Taylor,

Regional Administrator, Federal Transit Administration Region IV, June 11, 2014.

[FR Doc. 2014–14089 Filed 6–16–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35823]

East Broad Top Railroad Preservation Association—Acquisition and Operation Exemption—Kovalchick Salvage Corporation

East Broad Top Railroad Preservation Association (the Association), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a line of railroad (the Line) near Mt. Union, Pa. The Line consists of two segments: (1) The Mount Union Industrial Track (MUIT), extending between Railroad milepost 0.2, immediately west of the point of switch at Railroad Station 4085+96 at the junction with Norfolk Southern Railway (NSR) at Mt. Union, Pa., to the end of the track at milepost 1.4 at Railroad Station 4025+00, and (2) the original East Broad Top Main Line (EBT) extending from its connection with the MUIT at MUIT milepost 1.1, MUIT Railroad Station 4038+39 (EBT milepost 1.1, EBT Railroad Station 77+57) to EBT milepost 4.4.[1]

The Line was formerly owned by the Kovalchick Salvage Corp. (KOVC)[2] and now is owned by the Association. The Association acquired the Line from KOVC in 2013 and belatedly seeks Board authority for that acquisition now.

The Association states that no common carrier service has been provided over the MUIT since Conrail filed for abandonment in 1997. The Association also states that no common carrier freight rail service has been provided over the EBT in many years. The Association states that it will enter into an operating agreement with a newly formed Class III common carrier, EBTCR, to operate over the Line.[3] This includes providing service over the EBT when that trackage becomes capable of handling standard gauge cars following conversion of the EBT from a narrow gauge line to dual gauge.

The Association states that the Line has a physical connection with NSR at milepost 0.2, there are no other connections with common carrier railroads, and there is no agreement containing any provision imposing interchange commitments or restricting the Association's ability to interchange traffic with other carriers.

The Association certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

This exemption will become effective on July 3, 2014 (30 days after the verified notice of exemption was filed).[4]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 26, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35823, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Ave. NW., Suite 717, Washington, DC 20036.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Dated: June 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–14134 Filed 6–16–14; 8:45 am]

BILLING CODE 4915–01–P

[1] As set forth later in this notice, the Association acquired the Line in 2013 but only now is seeking Board authority for its acquisition. Also, a clarification filed by the Association and the East Broad Top Connecting Railroad (EBTCR) on May 30, 2014, corrects the mileposts of the EBT. A further clarification filed on June 3, 2014, confirms that the portion of the MUIT acquired by the Association extends between mileposts 0.2 and 1.4. As corrected, therefore, the verified notice pertains to the portion of the MUIT acquired by the Association between milepost 0.2 and milepost 1.4 (1.2 miles) and the portion of the EBT acquired by the Association between its connection with the MUIT at MUIT milepost 1.1 (EBT milepost 1.1) and EBT milepost 4.4 (3.3 miles), for a total distance of 4.5 miles.

[2] The MUIT was owned by Consolidated Rail Corp. (Conrail) and purchased by KOVC pursuant to an offer of financial assistance under 49 U.S.C. § 10904. *See Consol. Rail Corp.—Aban.—Huntingdon Cnty., Pa.,* AB 167 (Sub-No. 1175) (STB served Apr. 10, 1997). In 1956, the EBT was authorized for abandonment, *see E. Broad Top R.R. & Coal Co. Abandonment,* 295 I.C.C. 814 (1956), and apparently purchased by the then-owner of KOVC, *see Tex. & Okla. R.R.—Acquis. & Operation Exemption—Atchison, Topeka, and Santa Fe Ry.,* FD 31870, at n.13 (ICC served April 20, 1992) (describing how East Broad Top Railroad ceased freight operations and was ''shut down'' in 1956 by its then-owner and subsequently was purchased by the then-owner of KOVC).

[3] On March 20, 2014, EBTCR filed a verified notice of exemption seeking authority to operate over the Line in *East Broad Top Connecting Railroad—Operating Exemption—East Broad Top Railroad Preservation Ass'n,* Docket No. FD 35811.

[4] The verified notice is deemed to have been filed on June 3, 2014, the date of the Association's and EBTCR's second clarification.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35811]

East Broad Top Connecting Railroad—Operation Exemption—East Broad Top Railroad Preservation Association

East Broad Top Connecting Railroad (EBTCR), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to operate a line of railroad (the Line) owned by the East Broad Top Railroad Preservation Association (the Association)[1] totaling approximately 4.5 miles near Mt. Union, Pa. The Line consists of two segments: (1) The Mount Union Industrial Track (MUIT), extending between Railroad milepost 0.2, immediately west of the point of switch at Railroad Station 4085+96 at the junction with Norfolk Southern Railway (NSR) at Mt. Union, Pa., to the end of the track at milepost 1.4 at Railroad Station 4025+00, and (2) the original East Broad Top Main Line (EBT) extending from its connection with the MUIT at MUIT milepost 1.1, MUIT Railroad Station 4038+39 (EBT

[1] In *East Broad Top Railroad Preservation Ass'n—Acquisition & Operation Exemption—Kovalchick Salvage Corp.,* Docket No. FD 35823, the Association is belatedly seeking authority to acquire and operate the Line, which it purchased from Kovalchick Salvage Corp. in 2013.

milepost 1.1, EBT Railroad Station 77+57) to EBT milepost 4.4.[2]

EBTCR states that, once this notice becomes effective, EBTCR will provide all common carrier railroad service over the Line connecting with and interchanging traffic with NSR.

This transaction may be consummated on or after July 3, 2014 (30 days after the verified notice of exemption was filed).[3]

EBTCR certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 26, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35811, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Strasburger & Price, 1025 Connecticut Ave. NW., Suite 717, Washington, DC 20036.

[2] A clarification filed by the Association and EBTCR on May 30, 2014, corrects the mileposts of the EBT. A further clarification filed on June 3, 2014, confirms that the portion of the MUIT acquired by the Association extends between mileposts 0.2 and 1.4. As corrected, therefore, the verified notice pertains to the portion of the MUIT acquired by the Association between milepost 0.2 and milepost 1.4 (1.2 miles) and the portion of the EBT acquired by the Association between its connection with the MUIT at MUIT milepost 1.1 (EBT milepost 1.1) and EBT milepost 4.4 (3.3 miles), for a total distance of 4.5 miles. Although the June 3, 2014 clarification indicates that EBTCR seeks operating authority over an additional segment of the MUIT between mileposts 0.0 and 0.2, according to the parties that segment is outside the portion acquired by the Association, and the operating agreement filed by the parties here (see note 3 below) does not include it. Therefore, it is not included within the scope of this notice.

[3] By decision served on March 27, 2014, the Board held publication of the notice in the **Federal Register** and effectiveness of this exemption in abeyance pending further filings by EBTCR. On May 20, 2014, EBTCR filed a copy of the operating agreement between it and the Association, *see Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, Inc.,* FD 35296, slip op. at 3–4 (STB served Aug. 31, 2010), and stated that it will e-file copies of the signature pages of the agreement when they are executed. The Association and EBTCR subsequently filed their May 30 and June 3 clarifications. The verified notice therefore is deemed to have been filed on June 3, 2014, the date of the second clarification.

Board decisions and notices are available on our Web site at ''WWW.STB.DOT.GOV.''

Dated: June 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–14133 Filed 6–16–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Blocking and Addition to the Specially Designated Nationals and Blocked Persons List of Three Individuals and One Entity Pursuant to Executive Order 13469

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of three individuals and one entity whose property and interests in property have been blocked pursuant to Executive Order 13469 ''Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe.''

DATES: The blocking and addition to the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the three individuals and one entity identified in this notice was effective as of April 17, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On March 6, 2003, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S. C. 1701–06) (''IEEPA'') issued Executive Order 13288 (68 FR 11457, March 10, 2003). In Executive Order 13288, the President declared a national emergency to deal with the threat posed by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, contributing to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region.

On July 25, 2008, the President found that the continued actions and policies of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions to commit acts of violence and other human rights abuses against political opponents, and to engage in public corruption, including by misusing public authority, constitute an unusual and extraordinary threat to the foreign policy of the United States and issued Executive Order 13469. Executive Order 13469 authorized the Secretary of the Treasury, in consultation with the Secretary of State, to designate additional persons determined to meet the criteria set forth therein.

On April 17, 2014, the Acting Director of OFAC, in consultation with the State Department, determined that the individuals and entity identified below met the criteria of Executive Order 13469 and, accordingly, blocked their property and interests in property and added them to the SDN List.

Individuals

1. PA, Sam (a.k.a. HUI, Samo; a.k.a. JINGHUA, Xu; a.k.a. KING, Sam; a.k.a. KYUNG–WHA, Tsui; a.k.a. LEUNG, Ghiu Ka; a.k.a. MENEZES, Antonio Famtosonghiu Sampo); DOB 28 Feb 1958; nationality China; citizen Angola; alt. citizen United Kingdom; Passport C234897(0) (United Kingdom) (individual) [ZIMBABWE].
2. ZERENIE, Jimmy; nationality Singapore; Passport E0840452D (Singapore); Identification Number 264/2005 (Singapore) (individual) [ZIMBABWE].
3. MUDEDE, Tobaiwa (a.k.a. ''TONNETH''); DOB 22 Dec 1942; Registrar General (individual) [ZIMBABWE].

Entity

1. SINO ZIM DEVELOPMENT (PVT) LTD (a.k.a. SINO ZIM HOLDINGS (PVT) LTD; a.k.a. SINO ZIMBABWE COTTON HOLDINGS), 3rd Floor, Livingstone House, 48 Samora Machel Avenue, Harare, Zimbabwe; PO Box 7520, Harare, Zimbabwe; Telephone: (04) 710043 [ZIMBABWE].

Dated: May 22, 2014.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2014–14112 Filed 6–16–14; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 116 June 17, 2014

Part II

Department of Labor

29 CFR Part 10

Establishing a Minimum Wage for Contractors; Proposed Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 10

RIN 1235–AA10

Establishing a Minimum Wage for Contractors

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes regulations to implement Executive Order 13658, Establishing a Minimum Wage for Contractors, which was signed by President Barack Obama on February 12, 2014. Executive Order 13658 states that the Federal Government's procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. The Executive Order therefore seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by raising the hourly minimum wage paid by those contractors to workers performing on covered Federal contracts to: $10.10 per hour, beginning January 1, 2015; and beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor. The Executive Order directs the Secretary to issue regulations by October 1, 2014, to the extent permitted by law and consistent with the requirements of the Federal Property and Administrative Services Act to implement the Order's requirements. This proposed rule therefore establishes standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 13658. As required by the Order and to the extent practicable, the proposed rule incorporates existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act, the Service Contract Act, and the Davis-Bacon Act.

DATES: Comments must be received on or before July 17, 2014.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1235–AA10, by either of the following methods:

Electronic Comments: Submit comments through the Federal eRulemaking Portal *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Address written submissions to Mary Ziegler, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: Please submit only one copy of your comments by only one method. All submissions must include the agency name and RIN, identified above, for this rulemaking. Please be advised that comments received will become a matter of public record and will be posted without change to *http://www.regulations.gov,* including any personal information provided. Comments that are mailed must be received by the date indicated for consideration in this rulemaking. For additional information on submitting comments and the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. For questions concerning the interpretation and enforcement of labor standards related to government contracts, individuals may contact the Wage and Hour Division (WHD) local district offices (see contact information below).

Docket: For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION: Contact Mary Ziegler, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this proposed rule may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of the agency's regulations may be directed to the nearest WHD district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto the WHD's Web site for a nationwide listing of WHD district and area offices at *http://www.dol.gov/whd/america2.htm.*

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: This proposed rule is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this document via the WHD's Web site at *http://www.dol.gov/whd/.* To comment electronically on Federal rulemakings, go to the Federal e-Rulemaking Portal at *http://www.regulations.gov,* which will allow you to find, review, and submit comments on Federal documents that are open for comment and published in the **Federal Register**. You must identify all comments submitted by including ''RIN 1235–AA10'' in your submission. Commenters should transmit comments early to ensure timely receipt prior to the close of the comment period (date identified above); comments received after the comment period closes will not be considered. Submit only one copy of your comments by only one method. Please be advised that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

II. Executive Order 13658 Requirements and Background

On February 12, 2014, President Barack Obama signed Executive Order 13658, Establishing a Minimum Wage for Contractors (the Executive Order or the Order). 79 FR 9851. The Executive Order states that the Federal Government's procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. *Id.* The Order therefore seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by raising the hourly minimum wage paid by those contractors to workers performing on covered Federal contracts to (i) $10.10 per hour, beginning January 1, 2015; and (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor (Secretary) in accordance with the Executive Order. *Id.*

Section 1 of Executive Order 13658 sets forth a general position of the Federal Government that increasing the hourly minimum wage paid by Federal contractors to $10.10 will increase efficiency and cost savings for the Federal Government. 79 FR 9851. The Order states that raising the pay of low-wage workers increases their morale and productivity and the quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs. *Id.* The Order further states that these savings and quality improvements will lead to improved economy and efficiency in Government procurement. *Id.*

Section 2 of Executive Order 13658 therefore establishes a minimum wage

for Federal contractors and subcontractors. 79 FR 9851. The Order provides that executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as ''contracts''), as described in section 7 of the Order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, including workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c),[1] in the performance of the contract or any subcontract thereunder, shall be at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary in accordance with the Executive Order. 79 FR 9851. As required by the Order, the minimum wage amount determined by the Secretary pursuant to this section shall be published by the Secretary at least 90 days before such new minimum wage is to take effect and shall be: (A) Not less than the amount in effect on the date of such determination; (B) increased from such amount by the annual percentage increase, if any, in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and (C) rounded to the nearest multiple of $0.05. *Id.*

Section 2 of the Executive Order further explains that, in calculating the annual percentage increase in the CPI for purposes of this section, the Secretary shall compare such CPI for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage determined by the Secretary is in effect pursuant to this section) with the CPI for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. 79 FR 9851. Pursuant to this section, nothing in the Order excuses noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Order. *Id.*

Section 3 of Executive Order 13658 explains the application of the Order to tipped workers. 79 FR 9851–52. It provides that for workers covered by section 2 of the Order who are tipped employees pursuant to 29 U.S.C. 203(t), the hourly cash wage that must be paid by an employer to such employees shall be at least: (i) $4.90 an hour, beginning on January 1, 2015; (ii) for each succeeding 1-year period until the hourly cash wage under this section equals 70 percent of the wage in effect under section 2 of the Order for such period, an hourly cash wage equal to the amount determined under section 3 of the Order for the preceding year, increased by the lesser of: (A) $0.95; or (B) the amount necessary for the hourly cash wage under section 3 to equal 70 percent of the wage under section 2 of the Order; and (iii) for each subsequent year, 70 percent of the wage in effect under section 2 for such year rounded to the nearest multiple of $0.05. 79 FR 9851–52. Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of the Order, section 3 requires that the cash wage paid by the employer be increased such that their wages equal the minimum wage under section 2 of the Order. 79 FR 9852. Consistent with applicable law, if the wage required to be paid under the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.,* or any other applicable law or regulation is higher than the wage required by section 2 of the Order, the employer must pay additional cash wages sufficient to meet the highest wage required to be paid. *Id.*

Section 4 of Executive Order 13658 provides that the Secretary shall issue regulations by October 1, 2014, to the extent permitted by law and consistent with the requirements of the Federal Property and Administrative Services Act, to implement the requirements of the Order, including providing exclusions from the requirements set forth in the Order where appropriate. 79 FR 9852. It also requires that, to the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council (FARC) shall issue regulations in the Federal Acquisition Regulation (FAR) to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to the Executive Order. *Id.* Additionally, this section states that within 60 days of the Secretary issuing regulations pursuant to the Order, agencies must take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts for concessions and contracts entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public, entered into after January 1, 2015, consistent with the effective date of such agency action, comply with the requirements set forth in sections 2 and 3 of the Order. *Id.* The Order further specifies that any regulations issued pursuant to this section should, to the extent practicable and consistent with section 8 of the Order, incorporate existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.;* the SCA; and the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.* 79 FR 9852.

Section 5 of Executive Order 13658 grants authority to the Secretary to investigate potential violations of and obtain compliance with the Order. 79 FR 9852. It also explains that Executive Order 13658 does not create any rights under the Contract Disputes Act and that disputes regarding whether a contractor has paid the wages prescribed by the Order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to the Order. *Id.*

Section 6 of Executive Order 13658 establishes that if any provision of the Order or the application of such provision to any person or circumstance is held to be invalid, the remainder of the Order and the application shall not be affected. 79 FR 9852.

Section 7 of the Executive Order provides that nothing in the Order shall be construed to impair or otherwise affect the authority granted by law to an agency or the head thereof; or the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals. 79 FR 9852–53. It also states that the Order is to be implemented consistent with applicable law and subject to the availability of appropriations. 79 FR 9853. The Order explains that it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. *Id.*

Section 7 of Executive Order 13658 further establishes that the Order shall apply only to a new contract, as defined

[1] 29 U.S.C. 214(c) authorizes employers, after receiving a certificate from the WHD, to pay subminimum wages to workers whose earning or productive capacity is impaired by a physical or mental disability for the work to be performed.

by the Secretary in the regulations issued pursuant to section 4 of the Order, if: (i) (A) It is a procurement contract for services or construction; (B) it is a contract for services covered by the SCA; (C) it is a contract for concessions, including any concessions contract excluded by Department of Labor (the Department) regulations at 29 CFR 4.133(b); or (D) it is a contract entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (ii) the wages of workers under such contract are governed by the FLSA, the SCA, or the DBA. 79 FR 9853. Section 7 of the Order also states that, for contracts covered by the SCA or the DBA, the Order shall apply only to contracts at the thresholds specified in those statutes.[2] *Id.* Additionally, for procurement contracts where workers' wages are governed by the FLSA, the Order specifies that it shall apply only to contracts that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a),[3] unless expressly made subject to the Order pursuant to regulations or actions taken under section 4 of the Order. 79 FR 9853. The Executive Order specifies that it shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts expressly excluded by the regulations issued pursuant to section 4(a) of the Order. 79 FR 9853. The Order also strongly encourages independent agencies to comply with its requirements. *Id.*

Section 8 of Executive Order 13658 provides that the Order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued on or after: (i) January 1, 2015, consistent with the effective date for the action taken by the FARC pursuant to section 4(a) of the Order; or (ii) for contracts where an agency action is taken pursuant to section 4(b) of the Order, January 1, 2015, consistent with the effective date for such action. 79 FR 9853–54. It also specifies that the Order shall not apply to contracts entered into pursuant to solicitations issued on or before the effective date for the relevant action taken pursuant to section 4 of the Order. *Id.* Finally, Section 8 states that, for all new contracts negotiated between the date of the Order and the effective dates set forth in this section, agencies are strongly encouraged to take all steps that are reasonable and legally permissible to ensure that individuals working pursuant to those contracts are paid an hourly wage of at least $10.10 (as set forth under sections 2 and 3 of the Order) as of the effective dates set forth in this section. 79 FR 9854.

III. Discussion of Proposed Rule

A. Legal Authority

The President issued Executive Order 13658 pursuant to his authority under ''the Constitution and the laws of the United States,'' expressly including the Federal Property and Administrative Services Act (Procurement Act), 40 U.S.C. 101 *et seq.* 79 FR 9851. The Procurement Act authorizes the President to ''prescribe policies and directives that [the President] considers necessary to carry out'' the statutory purposes of ensuring ''economical and efficient'' government procurement and administration of government property. 40 U.S.C. 101, 121(a). Executive Order 13658 delegates to the Secretary the authority to issue regulations to ''implement the requirements of this order.'' 79 FR 9852. The Secretary has delegated his authority to promulgate these regulations to the Administrator of the WHD. Secretary's Order 05–2010 (Sept. 2, 2010), 75 FR 55352 (published Sept. 10, 2010).

B. Stakeholder Engagement

As part of the development of this proposed rule, the Department has engaged stakeholders likely subject to the Executive Order to solicit their views on what the Executive Order will mean for their operations and workers. During four of the Department's Government Contract Prevailing Wage Seminars held by the WHD in Manchester, NH; Phoenix, AZ; Chicago, IL; and San Diego, CA; this year, the WHD conducted listening sessions in each location to hear the views, ideas, and concerns of interested parties (including contractors, contracting agencies, and unions) regarding the provisions of the Executive Order. The Department also hosted listening sessions in Washington, DC during which interested stakeholders, such as contractor associations; worker advocates, including advocates for people with disabilities; contracting agencies; and small businesses provided their views to Departmental leadership. One such listening session was co-hosted by the Small Business Administration's Office of Advocacy. The Department found these listening sessions helpful and considered relevant information raised during those sessions in developing the proposed regulations set forth herein.

C. Overview of the Proposed Rule

The Department's notice of proposed rulemaking (NPRM), which would amend Title 29 of the Code of Federal Regulations (CFR) by adding part 10, establishes standards and procedures for implementing and enforcing Executive Order 13658. Proposed subpart A of part 10 relates to general matters, including the purpose and scope of the rule, as well as the definitions, coverage, and exclusions that the rule provides pursuant to the Order. It also sets forth the general minimum wage requirement for contractors established by the Executive Order, an antiretaliation provision, and a prohibition against waiver of rights. Proposed subpart B establishes the requirements that contracting agencies and the Department must follow to comply with the minimum wage provisions of the Executive Order. Proposed subpart C establishes the requirements that contractors must follow to comply with the minimum wage provisions of the Executive Order. Proposed subparts D and E specify standards and procedures related to complaint intake, investigations, remedies, and administrative enforcement proceedings. Proposed appendix A contains a contract clause to implement Executive Order 13658. 79 FR 9851.

The following section-by-section discussion of this proposed rule presents the contents of each section. The Department invites comments on any issues addressed by the proposals in this rulemaking.

Subpart A—General

Proposed subpart A of part 10 pertains to general matters, including the purpose and scope of the rule, as well as the definitions, coverage, and exclusions that the rule provides pursuant to the Order. Proposed § 10.1(a) explains that the purpose of the proposed rule is to implement Executive Order 13658 and reiterates statements from the Order that the Federal Government's procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. There is evidence that boosting low wages can reduce turnover and absenteeism in the workplace, while also improving morale

[2] The prevailing wage requirements of the SCA apply to covered prime contracts in excess of $2,500. *See* 41 U.S.C. 6702(a)(2) (recodifying 41 U.S.C. 351(a)). The DBA applies to covered prime contracts that exceed $2,000. *See* 40 U.S.C. 3142(a). There is no value threshold requirement for subcontracts awarded under such prime contracts.

[3] 41 U.S.C. 1902(a) defines the micro-purchase threshold as $3,000.

and incentives for workers, thereby leading to higher productivity overall. As stated in proposed § 10.1(a), it is for these reasons that the Executive Order concludes that cost savings and quality improvements in the work performed by parties who contract with the Federal Government will lead to improved economy and efficiency in Government procurement. The Department believes that, by increasing the quality and efficiency of services provided to the Federal Government, the Executive Order will improve the value that taxpayers receive from the Federal Government's investment.

Proposed § 10.1(b) explains the general Federal Government requirement established in Executive Order 13658 that new contracts with the Federal Government include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, requiring, as a condition of payment, that the contractor and any subcontractors pay workers performing on the contract or any subcontract thereunder at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) an amount determined by the Secretary pursuant to the Order, beginning January 1, 2016, and annually thereafter. Proposed § 10.1(b) also clarifies that nothing in Executive Order 13658 or part 10 is to be construed to excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Order.

Proposed § 10.1(c) outlines the scope of this proposed rule and provides that neither Executive Order 13658 nor this part creates any rights under the Contract Disputes Act or any private right of action. The Department does not interpret the Executive Order as limiting existing rights under the Contract Disputes Act. This provision also restates the Executive Order's directive that disputes regarding whether a contractor has paid the minimum wages prescribed by the Order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under the Order. The provision clarifies, however, that nothing in the Order is intended to limit or preclude a civil action under the False Claims Act, 31 U.S.C. 3730, or criminal prosecution under 18 U.S.C. 1001. Finally, this paragraph clarifies that neither the Order nor this proposed rule would preclude judicial review of final decisions by the Secretary in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

Proposed § 10.2 defines terms for purposes of this rule implementing Executive Order 13658. Section 4(c) of the Executive Order instructs that any regulations issued pursuant to the Order should ''incorporate existing definitions'' under the FLSA, the SCA, and the DBA ''to the extent practicable and consistent with section 8 of this order.'' 79 FR 9852. Most of the definitions provided in this proposed rule are therefore based on either the Executive Order itself or the definitions of relevant terms set forth in the statutory text or implementing regulations of the FLSA, SCA, or DBA. Several proposed definitions adopt or rely upon definitions published by the FARC in section 2.101 of the FAR. 48 CFR 2.101. The Department also proposes to adopt, where applicable, definitions set forth in the Department's regulations implementing Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts. 29 CFR 9.2. The Department notes that, while the proposed definitions discussed herein govern the implementation and enforcement of Executive Order 13658, nothing in the proposed rule is intended to alter the meaning of or to be interpreted inconsistently with the definitions set forth in the FAR for purposes of that regulation.

The Department proposes to define the term *agency head* to mean the Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an executive agency, unless otherwise indicated, including any deputy or assistant chief official of an executive agency or any persons authorized to act on behalf of the agency head. This proposed definition is based on the definition of the term set forth in section 2.101 of the FAR. *See* 48 CFR 2.101.

The Department proposes to define *concessions contract* (or *contract for concessions*) to mean a contract under which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services. This proposed definition does not contain a limitation regarding the beneficiary of the services, and such contracts may be of direct or indirect benefit to the Federal Government, its property, its civilian or military personnel, or the general public. *See* 29 CFR 4.133. The proposed definition includes but is not limited to all concession contracts excluded by Departmental regulations under the SCA at 29 CFR 4.133(b).

The Department proposes to define *contract* and *contract-like instrument* collectively for purposes of the Executive Order as an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The proposed definition of the term *contract* broadly includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The proposed definition of the term *contract* shall be interpreted broadly to include, but not be limited to, any contract that may be consistent with the definition provided in the FAR or applicable Federal statutes. This definition shall include, but shall not be limited to, any contract that may be covered under any Federal procurement statute. The Department specifically proposes to note in this definition that contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. The proposed definition also explains that, in addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. The proposed definition also specifies that, for purposes of the minimum wage requirements of the Executive Order, the term *contract* includes contracts covered by the SCA, contracts covered by the DBA, and concessions contracts not otherwise subject to the SCA, as provided in section 7(d) of the Executive Order. *See* 79 FR 9853. The proposed definition of *contract* discussed herein is derived from the definition of the term *contract* set forth in Black's Law Dictionary (9th ed. 2009) and § 2.101 of the FAR (48 CFR 2.101), as well as the descriptions of the term *contract* that appear in the SCA's regulations at 29 CFR 4.110–.111, 4.130. The Department also incorporates the exclusions from coverage specified in section 7(f) of the Executive Order and provides that the term *contract* does not include grants; contracts and agreements with and grants to Indian

Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts or contract-like instruments expressly excluded by § 10.4.

The Department notes that the mere fact that a legal instrument constitutes a *contract* under this definition does not mean that such contract is subject to the Executive Order. In order for a contract to be covered by the Executive Order and this proposed rule, the contract must qualify as one of the specifically enumerated types of contracts set forth in section 7(d) of the Order and proposed § 10.3. For example, although a cooperative agreement is considered a contract pursuant to the Department's proposed definition, a cooperative agreement will not be covered by the Executive Order and this part unless it is subject to the DBA or SCA, is a concessions contract, or is entered into ''in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.'' 79 FR 9853. In other words, this part does not apply to cooperative agreements that do not involve providing services for Federal employees, their dependents, or the general public.

The Department proposes to substantially adopt the definition for *contracting officer* in section 2.101 of the FAR, which means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. *See* 48 CFR 2.101.

The Department defines *contractor* to mean any individual or other legal entity that (1) directly or indirectly (*e.g.,* through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract or a subcontract under a Government contract; or (2) conducts business, or reasonably may be expected to conduct business, with the Government as an agent or representative of another contractor. The term *contractor* refers to both a prime contractor and all of its first or lower-tier subcontractors on a contract with the Federal Government. This proposed definition incorporates relevant aspects of the definitions of the term *contractor* in section 9.403 of the FAR, *see* 48 CFR 9.403; the SCA's regulations at 29 CFR 4.1a(f); and the Department's regulations implementing Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts at 29 CFR 9.2. This definition includes lessors and lessees, as well as employers of workers performing on covered Federal contracts whose wages are computed pursuant to special certificates issued under 29 U.S.C. 214(c). The Department notes that the term *employer* is used interchangeably with the terms *contractor* and *subcontractor* in this part. The proposed rule also explains that the U.S. Government, its agencies, and its instrumentalities are not considered contractors, subcontractors, employers, or joint employers for purposes of compliance with the provisions of Executive Order 13658.

The Department proposes to define the term *Davis-Bacon Act* to mean the Davis-Bacon Act of 1931, as amended, 40 U.S.C. 3141 *et seq.,* and its implementing regulations.

In the NPRM, the Department defines *executive departments and agencies* that are subject to Executive Order 13658 by adopting the definition of *executive agency* provided in section 2.101 of the FAR. 48 CFR 2.101. The Department therefore interprets the Executive Order to apply to executive departments within the meaning of 5 U.S.C. 101, military departments within the meaning of 5 U.S.C. 102, independent establishments within the meaning of 5 U.S.C. 104(1), and wholly owned Government corporations within the meaning of 31 U.S.C. 9101. The Department does not interpret this definition as including the District of Columbia or any Territory or possession of the United States.

The Department defines the term *Executive Order minimum wage* as a wage that is at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary pursuant to section 2 of Executive Order 13658. This definition is based on the language set forth in section 2 of the Executive Order. 79 FR 9851–52.

The Department proposes to define *Fair Labor Standards Act* as the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.,* and its implementing regulations.

The term *Federal Government* is defined in the NPRM as an agency or instrumentality of the United States that enters into a contract pursuant to authority derived from the Constitution or the laws of the United States. This proposed definition is based on the definition of *Federal Government* set forth in 29 CFR 9.2, but eliminates the term ''procurement'' from that definition because Executive Order 13658 applies to both procurement and non-procurement contracts covered by section 7(d) of the Order. Consistent with the SCA, the term Federal Government includes nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces or of other Federal agencies. *See* 29 CFR 4.107(a). For purposes of the Executive Order and this part, the Department's proposed definition does not include the District of Columbia or any Territory or possession of the United States.

The Department proposes to define the term *independent agencies,* for the purposes of Executive Order 13658, as any independent regulatory agency within the meaning of 44 U.S.C. 3502(5). Section 7(g) of the Executive Order states that ''[i]ndependent agencies are strongly encouraged to comply with the requirements of this order.'' The Department interprets this provision to mean that independent agencies are not required to comply with this Executive Order. This proposed definition is therefore based on other Executive Orders that similarly exempt independent regulatory agencies within the meaning of 44 U.S.C. 3502(5) from the definition of *agency* or include language requesting that they comply. *See, e.g.,* Executive Order 13636, 78 FR 11739 (Feb. 12, 2013) (defining *agency* as any executive department, military department, Government corporation, Government-controlled operation, or other establishment in the executive branch of the Government but excluding independent regulatory agencies as defined in 44 U.S.C. 3502(5)); Executive Order 13610, 77 FR 28469 (May 10, 2012) (same); Executive Order 12861, 58 FR 48255 (September 11, 1993) (''Sec. 4 Independent Agencies. All independent regulatory commissions and agencies are requested to comply with the provisions of this order.''); Executive Order 12837, 58 FR 8205 (Feb. 10, 1993) (''Sec. 4. All independent regulatory commissions and agencies are requested to comply with the provisions of this order.'').

The Department proposes to define the term *new contract* as a contract that results from a solicitation issued on or after January 1, 2015 or a contract that is awarded outside the solicitation process on or after January 1, 2015. The proposed definition would note that this term includes both new contracts and replacements for expiring contracts provided that the contract results from a solicitation issued on or after January 1, 2015 or is awarded outside the solicitation process on or after January 1, 2015. This language is based on section 8 of the Executive Order, 79 FR 9853, and is consistent with the

convention set forth in section 1.108(d) of the FAR, 48 CFR 1.108(d).

Proposed § 10.2 defines the term *option* by adopting the definition set forth in section 2.101 of the FAR, which provides that the term *option* means a unilateral right in a contract by which, for a specified time, the Federal Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract. *See* 48 CFR 2.101.

The Department proposes to define the term *procurement contract for construction* to mean a contract for the construction, alteration, or repair (including painting and decorating) of public buildings or public works and which requires or involves the employment of mechanics or laborers, and any subcontract of any tier thereunder. The proposed definition includes any contract subject to the provisions of the DBA, as amended, and its implementing regulations. This proposed definition is derived from language found at 40 U.S.C. 3142(a) and 29 CFR 5.2(h).

The Department proposes to define the term *procurement contract for services* to mean a contract the principal purpose of which is to furnish services in the United States through the use of service employees, and any subcontract of any tier thereunder. This proposed definition includes any contract subject to the provisions of the SCA, as amended, and its implementing regulations. This proposed definition is derived from language set forth in 41 U.S.C. 6702(a), 29 CFR 4.1a(e), and 29 CFR 9.2.

The Department proposes to define the term *Service Contract Act* to mean the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and its implementing regulations. *See* 29 CFR 4.1a(a).

In this NPRM, the term *solicitation* is defined to mean any request to submit offers or quotations to the Federal Government. This definition is based on the language found at 29 CFR 9.2. The Department broadly interprets the term *solicitation* to apply to both traditional and nontraditional methods of solicitation, including informal requests by the Federal Government to submit offers or quotations.

The Department adopts in this proposed rule the definition of *tipped employee* in section 3(t) of the FLSA, that is, any employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips. *See* 29 U.S.C. 203(t). For purposes of the Executive Order, a worker performing on a contract covered by the Executive Order who meets this definition is a tipped employee.

In proposed § 10.2, the Department defines the term *United States* by adopting the definition set forth in 29 CFR 9.2, which provides that the term means the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which all or substantially all of the stock is owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including nonappropriated fund instrumentalities. The proposed definition also incorporates the definition of the term that appears in the FAR at 48 CFR 2.101, which explains that when the term is used in a geographic sense, the *United States* means the 50 States and the District of Columbia. The Department's proposed rule does not adopt any of the exceptions to the definition of this term that are set forth in the FAR.

The Department proposes to define *wage determination* as including any determination of minimum hourly wage rates or fringe benefits made by the Secretary pursuant to the provisions of the SCA or the DBA. This term includes the original determination and any subsequent determinations modifying, superseding, correcting, or otherwise changing the provisions of the original determination. The proposed definition is derived from 29 CFR 4.1a(h) and 29 CFR 5.2(q).

The Department proposes to define *worker* as any person engaged in the performance of a contract covered by the Executive Order, and whose wages under such contract are governed by the FLSA, the SCA, or the DBA, regardless of the contractual relationship alleged to exist between the individual and the employer. The proposed definition also incorporates the Executive Order's provision that the term *worker* includes any individual performing on or in connection with a covered contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c). 79 FR 9851, 9853. The definition of *worker* includes any person working on or in connection with a covered contract and individually registered in a bona fide apprenticeship or training program registered with the Department's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship. *See* 29 CFR 4.6(p) (SCA); 29 CFR 5.2(n) (DBA). Consistent with the FLSA, SCA, and DBA and their implementing regulations, this proposed definition of *worker* excludes from coverage any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. *See* 29 U.S.C. 213(a)(1) (FLSA); 41 U.S.C. 6701(3)(C) (SCA); 29 CFR 5.2(m) (DBA). The Department also emphasizes the well-established principle under those statutes that worker coverage does not depend upon the existence or form of any contractual relationship that may be alleged to exist between the contractor or subcontractor and such persons. *See, e.g.,* 29 U.S.C. 203(d), (e)(1), (g) (FLSA); 41 U.S.C. 6701(3)(B), 29 CFR 4.155 (SCA); 29 CFR 5.5(a)(1)(i) (DBA). As reflected in the proposed definition, the Executive Order is intended to apply to a wide range of employment relationships. Neither an individual's subjective belief about his or her employment status nor the existence of a contractual relationship is determinative of whether a worker is covered by the Executive Order.

Finally, the Department proposes to adopt the definitions for the terms *Administrator, Administrative Review Board, Office of Administrative Law Judges,* and *Wage and Hour Division* set forth in 29 CFR 9.2.

Proposed §§ 10.3 and 10.4 address and implement the coverage and exclusionary provisions of Executive Order 13658. Proposed § 10.3 explains the scope of the Executive Order and its coverage of executive agencies, new contracts, types of contractual arrangements and workers. Proposed § 10.4 implements the exclusions expressly set forth in section 7(f) of the Executive Order and would provide other limited exclusions to coverage as authorized by section 4(a) of the Order. 79 FR 9852–53.

Executive Order 13658 provides that agencies must, to the extent permitted by law, ensure that new contracts, as described in section 7 of the Order, include a clause specifying, as a condition of payment, that the minimum wage to be paid to workers in the performance of the contract shall be at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) an amount determined by the Secretary, beginning January 1, 2016, and annually thereafter. 79 FR 9851. Section 7(d) of the Executive Order establishes that this minimum wage requirement only applies to a new contract if: (i) (A) It is a procurement contract for services or construction; (B) it is a contract for services covered by the SCA; (C) it is a contract for concessions, including any

concessions contract excluded by the Department's regulations at 29 CFR 4.133(b); or (D) it is a contract entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (ii) the wages of workers under such contract are governed by the FLSA, the SCA, or the DBA. 79 FR 9853. Section 7(e) of the Order states that, for contracts covered by the SCA or the DBA, the Order applies only to contracts at the thresholds specified in those statutes. *Id.* It also specifies that, for procurement contracts where workers' wages are governed by the FLSA, the Order applies only to contracts that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to the Order pursuant to regulations or actions taken under section 4 of the Order. 79 FR 9853. The Executive Order states that it does not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts expressly excluded by the regulations issued pursuant to section 4(a) of the Order. 79 FR 9853.

Proposed § 10.3(a) would implement these coverage provisions by stating that Executive Order 13658 and this part apply to any contract with the Federal Government, unless excluded by § 10.4, that results from a solicitation issued on or after January 1, 2015 or that is awarded outside the solicitation process on or after January 1, 2015, provided that: (1) (i) It is a procurement contract for construction covered by the DBA; (ii) it is a contract for services covered by the SCA; (iii) it is a contract for concessions, including any concessions contract excluded by Departmental regulations at 29 CFR 4.133(b); or (iv) it is a contract in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (2) the wages of workers under such contract are governed by the FLSA, the SCA, or the DBA. 79 FR 9853. Proposed § 10.3(b) incorporates the monetary value thresholds referred to in section 7(e) of the Executive Order. 79 FR 9853. Finally, proposed § 10.3(c) states that the Executive Order and this part only apply to contracts with the Federal Government requiring performance in whole or in part within the United States. Several issues relating to the coverage provisions of the Executive Order and proposed § 10.3 are discussed below.

Coverage of Executive Agencies and Departments

Executive Order 13658 applies to all ''[e]xecutive departments and agencies.'' 79 FR 9851. As explained above, the Department would define *executive departments and agencies* by adopting the definition of *executive agency* provided in section 2.101 of the Federal Acquisition Regulation (FAR). 48 CFR 2.101. The proposed rule therefore interprets the Executive Order as applying to executive departments within the meaning of 5 U.S.C. 101, military departments within the meaning of 5 U.S.C. 102, independent establishments within the meaning of 5 U.S.C. 104(1), and wholly owned Government corporations within the meaning of 31 U.S.C. 9101. Pursuant to this definition, contracts awarded by the District of Columbia or any Territory or possession of the United States would not be covered by the Order.

The Executive Order strongly encourages, but does not compel, ''[i]ndependent agencies'' to comply with its requirements. 79 FR 9853. The Department interprets this provision, in light of the Executive Order's broad goal of adequately compensating workers on contracts with the Federal Government, as a narrow exemption from coverage. *See* 79 FR 9851. As discussed above, the proposed rule interprets independent agencies to mean any independent regulatory agency within the meaning of 44 U.S.C. 3502(5). This interpretation is consistent with provisions in other Executive Orders. *See, e.g.,* Executive Order 13636, 78 FR 11739 (Feb. 12, 2013); Executive Order 12861, 58 FR 48255 (Sept. 11, 1993). Thus, under the proposed rule, the Executive Order covers executive departments and agencies but does not cover any independent regulatory agency within the meaning of 44 U.S.C. 3502(5).

Coverage of New Contracts With the Federal Government

Proposed § 10.3(a) provides that the requirements of the Executive Order generally apply to ''contracts with the Federal Government.'' As discussed above, the NPRM sets forth a broadly inclusive definition of the term *contract* that would cover all contracts and contract-like instruments and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, intergovernmental service agreements, provider agreements, service agreements, licenses, permits, awards and notices of awards, job orders or task letters issued under basic ordering agreements, letter contracts, purchase orders, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. Unless otherwise noted, the use of the term *contract* throughout the Executive Order and this part therefore includes *contract-like instruments* and subcontracts.

As reflected in proposed § 10.3(a), the minimum wage requirements of Executive Order 13658 apply only to ''new contracts'' with the Federal Government within the meaning of section 8 of the Order. 79 FR 9853–54. Section 8 of the Executive Order states that the Order shall apply to covered contracts where the solicitation for such contract has been issued on or after: (i) January 1, 2015, consistent with the effective date for the action taken by the FARC pursuant to section 4(a) of the Order; or (ii) for contracts where an agency action is taken pursuant to section 4(b) of the Order, January 1, 2015, consistent with the effective date for such action. 79 FR 9853–54. Proposed § 10.3(a) of this rule therefore states that this part applies to contracts with the Federal Government, unless excluded by § 10.4, that result from solicitations issued on or after January 1, 2015 or to contracts that are awarded outside the solicitation process on or after January 1, 2015. The Executive Order and this part thus apply to both new contracts and replacements for expiring contracts provided that such a contract results from a solicitation issued on or after January 1, 2015 or is awarded outside the solicitation process on or after January 1, 2015. The Department proposes that the Executive Order and this part do not apply to subcontracts unless the prime contract under which the subcontract is awarded results from a solicitation issued on or after January 1, 2015 or is awarded outside the solicitation process on or after January 1, 2015. Pursuant to the proposed rule, the requirements of the Executive Order and this part would not apply to contracts entered into pursuant to solicitations issued prior to January 1, 2015, the automatic renewal of such contracts, or the exercise of options under such contracts.

As discussed above in the context of the Department's proposed definitions in § 10.2, the term *option* means a unilateral right in a contract by which, for a specified time, the Federal Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract. *See* 48 CFR

2.101. The Department notes that only truly automatic renewals of contracts or exercises of options devoid of any bilateral negotiations fall outside the scope of the Executive Order. As discussed above and consistent with the FAR, the Department's proposed definition of the term contract specifically includes bilateral contract modifications. Any renewals or extensions of contracts resulting from bilateral negotiations involving contractual modifications other than administrative changes would therefore qualify as ''new contracts'' subject to the Executive Order if they are awarded on or after January 1, 2015, even if such negotiations occur during option periods. For example, pursuant to this proposed interpretation, renewals of GSA Schedule Contracts that occur after January 1, 2015, and subsequent task or delivery orders under such contracts, will be covered by the Executive Order and this part to the extent that such renewals reflect bilateral negotiations resulting in contractual modifications other than administrative changes. By way of another example, if on January 1, 2015, a contracting agency and contractor renew or modify an existing contract for construction after engaging in negotiations regarding the type, size, cost, or location for the construction work under the contract, the Department would view such a contractual renewal as a ''new contract'' subject to the Executive Order. However, when a contracting agency exercises its unilateral right to extend the term of an existing service contract and simply makes pricing adjustments based on increased labor costs that result from its obligation to include a current SCA wage determination pursuant to 29 CFR 4.4 but no bilateral negotiations occur (other than any necessary to determine and effectuate those pricing adjustments), the Department would not view the exercise of that option as a ''new contract'' covered by the Executive Order.

Coverage of Types of Contractual Arrangements

Proposed § 10.3(a)(1) sets forth the specific types of contractual arrangements with the Federal Government that are covered by the Executive Order. As explained below, Executive Order 13658 and this part are intended to apply to a wide range of contracts with the Federal Government for services or construction. Proposed § 10.3(a)(1) implements the Executive Order by generally extending coverage to procurement contracts for construction covered by the DBA; service contracts covered by the SCA; concessions contracts, including any concessions contract excluded by the Department's regulations at 29 CFR 4.133(b); and contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public. Each of these categories of contractual agreements is discussed in greater detail below.

Procurement contracts for construction: Section 7(d)(i)(A) of the Executive Order extends coverage to ''procurement contract[s] for . . . construction.'' 79 FR 9853. The proposed rule at § 10.3(a)(1)(i) would interpret this provision of the Order as referring to any contract covered by the DBA, as amended, and its implementing regulations. The Department notes that this provision reflects that the Executive Order and this part apply to contracts subject to the DBA itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)–(60).

The DBA applies, in relevant part, to contracts to which the Federal Government is a party, for the construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Federal Government and which require or involve the employment of mechanics or laborers. 40 U.S.C. 3142(a). The DBA's regulatory definition of *construction* is expansive and includes all types of work done on a particular building or work by laborers and mechanics employed by a construction contractor or construction subcontractor. *See* 29 CFR 5.2(j). For purposes of the DBA and thereby the Executive Order, a contract is ''for construction'' if ''more than an incidental amount of construction-type activity'' is involved in its performance. *See, e.g., In the Matter of Crown Point, Indiana Outpatient Clinic,* WAB Case No. 86–33, 1987 WL 247049, at *2 (June 26, 1987) (citing *In re: Military Housing, Fort Drum, New York,* WAB Case No. 85–16, 1985 WL 167239 (Aug. 23, 1985)), *aff'd sub nom., Building and Construction Trades Dep't, AFL–CIO* v. *Turnage,* 705 F. Supp. 5 (D.D.C. 1988); 18 Op. O.L.C. 109, 1994 WL 810699 (May 23, 1994), at *5. The term ''contract for construction'' is not limited to contracts entered into with a construction contractor; rather, a contract for construction ''would seem to require only that there be a contract, and that one of the things required by that contract be construction of a public work.'' *Id.* at *3–4. The term ''public building or public work'' includes any building or work, the construction, prosecution, completion, or repair of which is carried on directly by authority of or with funds of a Federal agency to serve the general public interest. *See* 29 CFR 5.2(k).

Proposed § 10.3(b) implements section 7(e) of Executive Order 13658, 79 FR 9853, which provides that the Order applies only to DBA-covered prime contracts that exceed the $2,000 value threshold specified in the DBA. *See* 40 U.S.C. 3142(a). Consistent with the DBA, there is no value threshold requirement for subcontracts awarded under such prime contracts.

Contracts for services: Proposed § 10.3(a)(1)(ii) provides that coverage of the Executive Order and this part encompasses ''contract[s] for services covered by the Service Contract Act.'' This proposed provision implements sections 7(d)(i)(A) and (B) of the Executive Order, which state that the Order applies respectively to a ''procurement contract for services'' and a ''contract or contract-like instrument for services covered by the Service Contract Act.'' 79 FR 9853. The Department interprets a ''procurement contract for services,'' as set forth in section 7(d)(i)(A) of the Executive Order, to mean a procurement contract that is subject to the SCA, as amended, and its implementing regulations. The proposed rule would view a ''contract for services covered by the Service Contract Act'' under section 7(d)(i)(B) of the Order as including both procurement and non-procurement contracts for services that are covered by the SCA. The Department has therefore incorporated sections 7(d)(i)(A) and (B) of the Executive Order in proposed § 10.3(a)(1)(ii) by expressly stating that the requirements of the Order apply to service contracts covered by the SCA.

The SCA generally applies to every contract entered into by the United States that ''has as its principal purpose the furnishing of services in the United States through the use of service employees.'' 41 U.S.C. 6702(a)(3). The SCA is intended to cover a wide variety of service contracts with the Federal Government, so long as the principal purpose of the contract is to provide services using service employees. *See, e.g.,* 29 CFR 4.130(a). As reflected in the SCA's regulations, where the principal purpose of the contract with the Federal Government is to provide services through the use of service employees, the contract is covered by the SCA, regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service, and irrespective of whether the contractor performs the work in its own establishment, on a Government installation, or elsewhere. *See* 29 CFR

4.133(a). Coverage of the SCA, however, does not extend to contracts for services to be performed exclusively by persons who are not service employees, *i.e.,* persons who qualify as bona fide executive, administrative, or professional employees as defined in the FLSA's regulations at 29 CFR part 541. Similarly, a contract for professional services performed essentially by bona fide professional employees, with the use of service employees being only a minor factor in contract performance, is not covered by the SCA and thus would not be covered by the Executive Order or this part. *See* 41 U.S.C. 6702(a)(3); 29 CFR 4.113(a), 4.156; WHD Field Operations Handbook (FOH) ¶¶ 14b05, 14c07.

Although the SCA covers all non-exempted contracts with the Federal Government that have the ''principal purpose'' of furnishing services in the United States through the use of service employees regardless of the value of the contract, the prevailing wage requirements of the SCA only apply to covered contracts in excess of $2,500. 41 U.S.C. 6702(a)(2) (recodifying 41 U.S.C. 351(a)). Proposed § 10.3(b) of this rule implements section 7(e) of the Executive Order, which provides that for SCA-covered contracts, the Executive Order applies only to those prime contracts that exceed the $2,500 threshold for prevailing wage requirements specified in the SCA. 79 FR 9853. Consistent with the SCA, there is no value threshold requirement for subcontracts awarded under such prime contracts.

Contracts for concessions: Proposed § 10.3(a)(1)(iii) implements the Executive Order's coverage of a ''contract or contract-like instrument for concessions, including any concessions contract excluded by the Department of Labor's regulations at 29 C.F.R. 4.133(b).'' 79 FR 9853. As explained above, the NPRM interprets a ''contract or contract-like instrument for concessions'' under section 7(d)(i)(C) of the Executive Order as a contract under which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services. The proposed definition of the term *concessions contract* includes every contract the principal purpose of which is to furnish food, lodging, automobile fuel, souvenirs, newspaper stands, and/or recreational equipment, regardless of whether the services are of direct benefit to the Government, its personnel, or the general public. The SCA generally covers contracts for concessionaire services. *See* 29 CFR 4.130(a)(11). However, pursuant to the Secretary's authority under section 4(b) of the SCA, the SCA's regulations specifically exempt from coverage concession contracts ''principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public.'' 29 CFR 4.133(b); Preamble to the SCA Final Rule, 48 FR 49736, 49753 (Oct. 27, 1983). Section 7(d)(i)(C) of the Executive Order specifies that the Order applies to all contracts with the Federal Government for concessions, including any concessions contract that are excluded from SCA coverage by 29 CFR 4.133(b). Proposed § 10.3(a)(1)(iii) implements this provision and extends coverage of the Executive Order and this part to all concession contracts with the Federal Government. Consistent with the SCA's implementing regulations at 29 CFR 4.107(a), the Department notes that the Executive Order generally applies to concessions contracts with nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces or of other Federal agencies.

Proposed § 10.3(b) of this rule implements the value threshold requirements of section 7(e) of Executive Order 13658. 79 FR 9853. Pursuant to that section, the Executive Order applies to an SCA-covered concessions contract only if it exceeds $2,500. *Id.;* 41 U.S.C. 6702(a)(2). Section 7(e) of the Executive Order further provides that, for procurement contracts where workers' wages are governed by the FLSA, such as procurement contracts for concessionaire services that are excluded from SCA coverage under 29 CFR 4.133(b), this part applies only to contracts that exceed the $3,000 micro-purchase threshold, as defined in 41 U.S.C. 1902(a). There is no value threshold for subcontracts awarded under prime contracts or for non-procurement concessions contracts or contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.

Contracts in connection with Federal property and related to offering services: Proposed § 10.3(a)(1)(iv) implements Section 7(d)(i)(D) of the Executive Order, which extends coverage of the Order to contracts ''entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.'' 79 FR 9853. To the extent that such agreements are not otherwise covered by proposed § 10.3(a)(1), the Department interprets this provision as generally including leases of Federal property, including space and facilities, and licenses to use such property entered into by the Federal Government for the purpose of offering services to the Federal Government, its personnel, or the general public. In other words, private entities that lease space in a Federal building to provide services to Federal employees or the general public are covered by the Executive Order and this part. Although evidence that an agency has retained some measure of control over the terms and conditions of the lease or license to provide services is not necessary for purposes of determining applicability of this section, such a circumstance strongly indicates that the agreement involved is covered by section 7(d)(i)(D) of the Executive Order and proposed § 10.3(a)(1)(iv). Pursuant to this interpretation, a private fast food or casual dining restaurant that rents space in a Federal building and serves food to the general public will be subject to the Executive Order minimum wage requirement. Additional examples of agreements that would generally be covered by the Executive Order and this part include delegated leases of space in a Federal building from an agency to a contractor whereby the contractor operates a child care center, credit union, gift shop, barber shop, or fitness center in the Federal agency building to serve Federal employees and/or the general public. Coverage of this section only extends, however, to contracts that are ''in connection with Federal property or lands.'' 79 FR 9853. For example, if a Federal agency contracts with an outside catering company to provide and deliver coffee for a conference, such a contract may be covered by the SCA but it will not be considered a covered contract under section 7(d)(i)(D) of the Order because it is not a contract in connection with Federal property.

Pursuant to proposed § 10.3(b) and section 7(e) of Executive Order 13658, 79 FR 9853, the Order and this part apply only to SCA-covered prime contracts in connection with Federal property and related to offering services if such contracts exceed $2,500. *Id.;* 41 U.S.C. 6702(a)(2). For procurement contracts in connection with Federal property and related to offering services where workers' wages are governed by the FLSA (rather than the SCA), this part applies only to such contracts that exceed the $3,000 micro-purchase threshold, as defined in 41 U.S.C. 1902(a).

Relation to the Walsh-Healey Public Contracts Act: Finally the Department notes that contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, *i.e.,* those subject to the Walsh-Healey

Public Contracts Act (PCA), 41 U.S.C. 6501 *et seq.* are not covered by Executive Order 13658 or this part. The Department intends to follow the SCA's regulations at 29 CFR 4.117 in distinguishing between work that is subject to the PCA and work that is subject to the SCA (and therefore the Executive Order). The Department similarly proposes to follow the regulations set forth in the FAR at 48 CFR 22.402(b) in addressing whether the DBA (and thus the Executive Order) applies to construction work on a PCA contract. Under that proposed approach, where a PCA-covered contract involves a substantial and segregable amount of construction work that is subject to the DBA, workers whose wages are governed by the DBA or FLSA are entitled to the Executive Order minimum wage for the time that they spend performing on such DBA-covered construction work.

Coverage of Workers

Proposed § 10.3(a)(2) implements section 7(d)(ii) of Executive Order 13658, which provides that the minimum wage requirements of the Order only apply to contracts covered by section 7(d)(i) of the Order if the wages of workers under such contracts are subject to the FLSA, SCA, or the DBA. 79 FR 9853. The Executive Order thus provides that its minimum wage protections only extend to workers performing on contracts covered by the Executive Order whose wages are governed by the FLSA, SCA, or the DBA. *Id.* For example, the Order does not extend to workers whose wages are governed by the PCA. Moreover, as discussed below, the Department proposes that, except for workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) and workers who are otherwise covered by the SCA or DBA, employees who are exempt from the minimum wage protections of the FLSA under 29 U.S.C. 213(a) are similarly not subject to the minimum wage protections of Executive Order 13658 and this part.

In determining whether a worker's wages are ''governed by'' the FLSA for purposes of section 7(d)(ii) of the Executive Order and this part, the Department interprets this provision as referring to employees who are entitled to the minimum wage under FLSA section 6(a)(1), employees whose wages are calculated pursuant to special certificates issued under FLSA section 14(c), and tipped employees under FLSA section 3(t) who are not otherwise covered by the SCA or the DBA. *See* 29 U.S.C. 203(t), 206(a)(1), 214(c).

In evaluating whether a worker's wages are ''governed by'' the SCA for purposes of the Executive Order, the Department interprets such provision as referring to service employees who are entitled to prevailing wages under the SCA. *See* 29 CFR 4.150–56. The Department notes that workers whose wages are subject to the SCA include individuals who are employed on an SCA contract and individually registered in a bona fide apprenticeship program registered with the Department's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship. The Department also interprets the language in section 7(d)(ii) of Executive Order 13658 and proposed § 10.3(a)(2) as extending coverage to FLSA-covered employees performing on a SCA-covered contract who provide support on a service contract but who are not ''service employees'' under the contract for purposes of the SCA. 41 U.S.C. 6701(3). Although such workers performing on SCA-covered service contracts are not covered by the SCA because they are not ''service employees,'' such workers would be covered by the plain language of section 7(d) of the Executive Order because they are performing on a contract covered by the Order and their wages are governed by the FLSA. For example, a non-exempt accounting clerk who is covered by the FLSA and who exclusively processes invoices and work orders and responds to other administrative matters on an SCA-covered contract would be covered by the Executive Order even though the non-exempt accounting clerk may not qualify as a ''service employee'' for purposes of the SCA. Similarly, the Department interprets the language in section 7(d)(ii) of the Executive Order and proposed § 10.3(a)(2) as extending coverage to job coaches who assist FLSA section 14(c) workers in performing on covered contracts, to the extent that the job coach's wages would be governed by the FLSA, even if such individuals may not be ''service employees'' under the SCA.

However, if a contractor that performs work on SCA-covered contracts employs a security officer who is covered under the FLSA to guard the contractor's headquarters, that security officer would not be covered by the Executive Order because the employee is not engaged in working on or in connection with the contract, either in performing the specific services called for by the contract's terms or in performing other duties necessary to the performance of the contract. *See* 29 CFR 4.150

In evaluating whether a worker's wages are ''governed by'' the DBA for purposes of the Order, the proposed rule interprets such language as referring to laborers and mechanics who are covered by the DBA, including any individual who is employed on a DBA-covered contract and individually registered in a bona fide apprenticeship program registered with the Department's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship. The Department also interprets the language in section 7(d)(ii) of Executive Order 13658 and proposed § 10.3(a)(2) as extending coverage to workers performing on DBA-covered contracts for construction who are not laborers or mechanics but whose wages are governed by the FLSA. Although such workers are not covered by the DBA itself because they are not ''laborers and mechanics,'' 40 U.S.C. 3142(b), such individuals are workers performing on a contract subject to the Executive Order whose wages are governed by the FLSA and thus are covered by the plain language of section 7(d) of the Executive Order. 79 FR 9853. For example, the Department would view an administrative employee working on a DBA-covered contract or a security guard patrolling a construction worksite where DBA-covered work is being performed whose wages are governed by the FLSA as a covered worker entitled to the minimum wage established by the Executive Order. The NPRM extends this coverage to FLSA-covered employees working on DBA-covered contracts regardless of whether such employees are physically present on the DBA-covered construction worksite. However, if a contractor that performs work on DBA-covered contracts employs a technician who is covered under the FLSA to repair its electronic time system, that technician would not be covered by the Executive Order because the employee is not engaged in working on or in connection with the contract, either in performing the specific services called for by the contract's terms or in performing other duties necessary to the performance of the contract. *See* 29 CFR 4.150.

The Department notes that where state or local government workers are performing on covered contracts and their wages are subject to the FLSA or the SCA, such workers are entitled to minimum wage protections of the Executive Order and this part. The DBA does not apply to construction

performed by state or local government workers.

Geographic Scope

Finally, proposed § 10.3(c) provides that the Executive Order and this part only apply to contracts with the Federal Government requiring performance in whole or in part within the United States. This interpretation is similarly reflected in the Department's proposed definition of the term *United States,* which provides that when used in a geographic sense, the *United States* means the 50 States and the District of Columbia. Under this approach, the minimum wage requirements of the Executive Order and this part do not apply to contracts with the Federal Government to be performed in their entirety outside the geographical limits of the United States as thus defined. However, if a contract with the Federal Government is to be performed in part within and in part outside these geographical limits and is otherwise covered by the Executive Order and this part, the minimum wage requirements of the Order and this proposed rule apply with respect to that part of the contract that is performed within these geographical limits. This approach is consistent with the enforcement position adopted under the SCA and set forth at 29 CFR 4.112(b).

Proposed § 10.4 addresses and implements the exclusionary provisions expressly set forth in section 7(f) of Executive Order 13658 and provides other limited exclusions to coverage as authorized by section 4(a) of the Executive Order. *See* 79 FR 9852–53. Specifically, proposed §§ 10.4(a)–(d) set forth the limited categories of contractual arrangements for services or construction that are excluded from the minimum wage requirements of the Executive Order and this part, while proposed § 10.4(e) establishes narrow categories of workers that are excluded from coverage of the Order and this part. Each of these proposed exclusions is discussed below.

Proposed § 10.4(a) implements section 7(f) of Executive Order 13658, which states that the Order does not apply to ''grants.'' 79 FR 9853. The Department interprets this provision to mean that the minimum wage requirements of the Executive Order and this part do not apply to grants, as that term is used in the Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.* That statute defines a ''grant agreement'' as ''the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—(1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and (2) substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.'' 31 U.S.C. 6304. Section 2.101 of the FAR similarly excludes ''grants,'' as defined in the Federal Grant and Cooperative Agreement Act, from its coverage of contracts. 48 CFR 2.101. Several appellate courts have similarly adopted this construction of ''grants'' in defining the term for purposes of other Federal statutory schemes. *See, e.g., Chem. Service, Inc.* v. *Environmental Monitoring Systems Laboratory,* 12 F.3d 1256, 1258 (3rd Cir. 1993) (applying same definition of ''grants'' for purposes of 15 U.S.C. 3710a); *East Arkansas Legal Services* v. *Legal Services Corp.,* 742 F.2d 1472, 1478 (D.C. Cir. 1984) (applying same definition of ''grants'' in interpreting 42 U.S.C. 2996a). If a contract or contract-like instrument qualifies as a grant within the meaning of the Federal Grant and Cooperative Agreement Act, it would thereby be excluded from coverage of Executive Order 13658 and this part.

Proposed § 10.4(b) implements the other exclusion set forth in section 7(f) of Executive Order 13658, which states that the Order does not apply to ''contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended.'' 79 FR 9853.

The remaining exclusionary provisions of the proposed rule are derived from the authority granted to the Secretary pursuant to section 4(a) of the Executive Order to ''provid[e] exclusions from the requirements set forth in this order where appropriate'' in implementing regulations. 79 FR 9852. In issuing such regulations, the Executive Order instructs the Secretary to ''incorporate existing definitions'' under the FLSA, SCA, and DBA ''to the extent practicable.'' *Id.* Accordingly, the proposed exclusions discussed below incorporate existing applicable statutory and regulatory exclusions and exemptions set forth in the FLSA, SCA, and DBA.

As discussed in the coverage section above, the Department has proposed to interpret section 7(d)(i)(A) of the Executive Order, which states that the Order applies to ''procurement contract[s] for . . . construction,'' 79 FR 9853, as referring to any contract covered by the DBA, as amended, and its implementing regulations. *See* proposed § 10.3(a)(1)(i). In order to provide further definitional clarity to the regulated community for purposes of proposed § 10.3(a)(1)(i), the Department would thus establish in § 10.4(c) that any procurement contracts for construction that are not subject to the DBA are similarly excluded from coverage of the Executive Order and this part. To assist all interested parties in understanding their rights and obligations under Executive Order 13658, the Department proposes to make coverage of construction contracts under the Executive Order and this part consistent with coverage under the DBA to the greatest extent possible.

Similarly, the Department has proposed to implement the coverage provisions set forth in sections 7(d)(i)(A) and (B) of the Executive Order, which state that the Order applies respectively to a ''procurement contract for services'' and a ''contract or contract-like instrument for services covered by the Service Contract Act,'' 79 FR 9853, by providing that the requirements of the Order apply to all service contracts covered by the SCA. *See* proposed § 10.3(a)(1)(ii). Proposed § 10.4(d) provides additional clarification by incorporating, where appropriate, the SCA's exclusion of certain service contracts into the exclusionary provisions of the Executive Order. This proposed provision excludes from coverage of the Executive Order and this part any contracts for services, except for those expressly covered by proposed § 10.3(a)(1)(ii)–(iv), that are exempted from coverage under the SCA. The SCA specifically exempts from coverage seven types of contracts (or work) that might otherwise be subject to its requirements. *See* 41 U.S.C. 6702(b). Pursuant to this statutory provision, the SCA expressly does not apply to (1) a contract of the Federal Government or the District of Columbia for the construction, alteration, or repair, including painting and decorating, of public buildings or public works; (2) any work required to be done in accordance with chapter 65 of title 41; (3) a contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect; (4) a contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934, 47 U.S.C. 151 *et seq.;* (5) a contract for

public utility services, including electric light and power, water, steam, and gas; (6) an employment contract providing for direct services to a Federal agency by an individual; or (7) a contract with the United States Postal Service, the principal purpose of which is the operation of postal contract stations. *Id.; see* 29 CFR 4.115–4.122; WHD FOH ¶ 14c00.

The SCA also authorizes the Secretary to ''provide reasonable limitations'' and to ''prescribe regulations allowing reasonable variation, tolerances, and exemptions with respect to this chapter . . . but only in special circumstances where the Secretary determines that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Federal Government business, and is in accord with the remedial purpose of this chapter to protect prevailing labor standards.'' 41 U.S.C. 6707(b); *see* 29 CFR 4.123. Pursuant to this authority, the Secretary has exempted a specific list of contracts from SCA coverage to the extent regulatory criteria for exclusion from coverage are satisfied as provided at 29 CFR 4.123(d), (e). To assist all interested parties in understanding their rights and obligations under Executive Order 13658, the Department proposes to make coverage of service contracts under the Executive Order and this part consistent with coverage under the SCA to the greatest extent possible.

The Department therefore provides in proposed § 10.4(d) that contracts for services that are exempt from SCA coverage pursuant to its statutory language or implementing regulations are not subject to this part unless expressly included by proposed § 10.3(a)(1)(ii)–(iv). For example, the SCA exempts contracts for public utility services, including electric light and power, water, steam, and gas, from its coverage. *See* 41 U.S.C. 6702(b)(5); 29 CFR 4.120. Such contracts would also be exempt from coverage of the Executive Order and this part. Similarly contracts principally for the maintenance, calibration, or repair of automated data processing equipment and office information/word processing systems are exempted from SCA coverage pursuant to the SCA's implementing regulations at 29 CFR 4.123(e)(1)(i)(A); such contracts are thus not covered by the Executive Order or this proposed rule. However, certain types of concessions contracts are excluded from SCA coverage pursuant to 29 CFR 4.133(b) but are explicitly covered by the Executive Order and this part under proposed § 10.3(a)(1)(iii). 79 FR 9853. Moreover, to the extent that a contract is excluded from SCA coverage but subject to the DBA (*e.g.,* a contract with the Federal Government for the construction, alteration, or repair, including painting and decorating, of public buildings or public works that would be excluded from the SCA under 41 U.S.C. 6702(b)(1)), such a contract would be covered by the Executive Order and this part as ''procurement contract for . . . construction.'' 79 FR 9853; proposed § 10.3(a)(1)(i).

The Department proposes to provide in § 10.4(e) that, except for workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) and workers who are otherwise covered by the SCA or DBA, employees who are exempt from the minimum wage protections of the FLSA under 29 U.S.C. 213(a) are similarly not subject to the minimum wage protections of Executive Order 13658 and this part. Proposed §§ 10.4(e)(1)–(3), which are discussed briefly below, highlight some of the narrow categories of employees that are not entitled to the minimum wage protections of the Order and this part pursuant to this exclusion.

Proposed §§ 10.4(e)(1) and (2) specifically exclude from the requirements of Executive Order 13658 and this part workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a) and (b). Specifically, proposed § 10.4(e)(1) excludes from coverage learners, apprentices, or messengers employed under special certificates pursuant to 29 U.S.C. 214(a). *Id.; see* 29 CFR part 520. Proposed § 10.4(e)(2) also excludes from coverage full-time students employed under special certificates issued under 29 U.S.C. 214(b). *Id.; see* 29 CFR part 519.

Proposed § 10.4(e)(3) provides that the Executive Order and this part do not apply to individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in 29 CFR part 541. This proposed exclusion is consistent with the FLSA, SCA, and DBA and their implementing regulations. *See, e.g.,* 29 U.S.C. 213(a)(1) (FLSA); 41 U.S.C. 6701(3)(C) (SCA); 29 CFR 5.2(m) (DBA).

Proposed § 10.5 sets forth the minimum wage rate requirement for Federal contractors and subcontractors established in Executive Order 13658. *See* 79 FR 9851–52. This section generally discusses the minimum hourly wage protections provided by the Executive Order for workers performing on covered contracts with the Federal Government, as well as the methodology that the Secretary will utilize for determining the applicable minimum wage rate under the Executive Order on an annual basis beginning at least 90 days before January 1, 2016. The Executive Order provides that the minimum wage beginning January 1, 2016, and annually thereafter, will be an amount determined by the Secretary. It further provides that such rates be increased by the annual percentage increase in the CPI for the most recent month, quarter, or year available as determined by the Secretary. The Secretary proposes to base such increases on the most recent year available to minimize the impact of seasonal fluctuations on the Executive Order minimum wage rate. This section emphasizes that nothing in the Executive Order or this part shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Executive Order and this part. *See* 79 FR 9851.

Proposed § 10.6 establishes an antiretaliation provision stating that it shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or has testified or is about to testify in any such proceeding. This language is derived from the FLSA's antiretaliation provision set forth at 29 U.S.C. 215(a)(3) and is consistent with the Executive Order's direction to adopt enforcement mechanisms as consistent as practicable with the FLSA, SCA, or DBA. The Department believes that such a provision will help ensure effective enforcement of Executive Order 13658. Consistent with the Supreme Court's observation in interpreting the scope of the FLSA's antiretaliation provision, enforcement of Executive Order 13658 will depend ''upon information and complaints received from employees seeking to vindicate rights claimed to have been denied.'' *Kasten* v. *Saint-Gobain Performance Plastics Corp.,* 131 S. Ct. 1325, 1333 (2011) (internal quotation marks omitted). Accordingly, the Department is proposing to include an antiretaliation provision based on the FLSA's antiretaliation provision. *See* 29 U.S.C. 215(a)(3). Importantly, and consistent with the Supreme Court's interpretation of the FLSA's antiretaliation provision, the Department's proposed rule protects workers who file oral as well as written complaints. *See Kasten,* 131 S. Ct. at

1336. Moreover, as under the FLSA, the proposed antiretaliation provision under this part protects workers who complain to the Department as well as those who complain internally to their employers about alleged violations of the Order or this part. *See, e.g., Minor* v. *Bostwick Laboratories,* 669 F.3d 428, 438 (4th Cir. 2012); *Hagan* v. *Echostar Satellite, LLC,* 529 F.3d 617, 626 (5th Cir. 2008); *Lambert* v. *Ackerley,* 180 F.3d 997, 1008 (9th Cir. 1999) (en banc); *Valerio* v. *Putnam Associates,* 173 F.3d 35, 43 (1st Cir. 1999); *EEOC* v. *Romeo Community Sch.,* 976 F.2d 985, 989 (6th Cir. 1992). The Department also notes that the antiretaliation provision set forth herein, like the FLSA's antiretaliation provision, would apply in situations where there is no current employment relationship between the parties; for example, it protects a worker from retaliation by a prospective or former employer.

Proposed § 10.7 provides that workers cannot waive, nor may contractors induce workers to waive, their rights under Executive Order 13658 or this part. The Supreme Court has consistently concluded that an employee's rights and remedies under the FLSA, including payment of minimum wage and back wages, cannot be waived or abridged by contract. *See, e.g., Tony & Susan Alamo Found.* v. *Sec'y of Labor,* 471 U.S. 290, 302 (1985); *Barrentine* v. *Arkansas-Best Freight Sys., Inc.,* 450 U.S. 728, 740 (1981); *D.A. Schulte, Inc.* v. *Gangi,* 328 U.S. 108, 112–16 (1946); *Brooklyn Sav. Bank* v. *O'Neil,* 324 U.S. 697, 706–07 (1945). The Supreme Court has reasoned that the FLSA was intended to establish a ''uniform national policy of guaranteeing compensation for all work'' performed by covered employees. *Jewell Ridge Coal Corp.* v. *Local No. 6167, United Mine Workers,* 325 U.S. 161, 167 (1945) (internal quotation marks omitted). Consequently, the Court has held that ''[a]ny custom or contract falling short of that basic policy, like an agreement to pay less than the minimum wage requirements, cannot be utilized to deprive employees of their statutory rights.'' *Id.* (internal quotation marks omitted). In *Barrentine,* the Supreme Court reaffirmed the ''nonwaivable nature'' of these fundamental FLSA protections and stated that ''FLSA rights cannot be abridged by contract or otherwise waived because this would 'nullify the purposes' of the statute and thwart the legislative policies it was designed to effectuate.'' 450 U.S. at 740 (quoting *Brooklyn Sav. Bank,* 324 U.S. at 707). Moreover, FLSA rights are not subject to waiver because they serve an important public interest by protecting employers against unfair methods of competition in the national economy. *See Tony & Susan Alamo Found.,* 471 U.S. at 302. Releases and waivers executed by employees for unpaid wages (and fringe benefits) due them under the SCA are similarly without legal effect. 29 CFR 4.187(d). Because the public policy interests underlying the issuance of the Executive Order would be similarly thwarted by permitting workers to waive, or contractors to induce workers to waive, their rights under Executive Order 13658 or this part, proposed § 10.7 makes clear that such waiver of rights is impermissible.

Subpart B—Government Requirements

Proposed subpart B of part 10 establishes the requirements for the Federal Government to implement and comply with Executive Order 13658. Proposed § 10.11 addresses contracting agency requirements, while proposed § 10.12 explains the requirements placed upon the Department.

Contracting Agency Requirements

Proposed § 10.11(a) implements section 2 of Executive Order 13658, which directs that executive departments and agencies must include a contract clause in any new contracts or solicitations for contracts covered by the Executive Order. 79 FR 9851. Proposed § 10.11(a) briefly describes the basic function of the contract clause, which is to require that workers performing on covered contracts be paid the applicable Executive Order minimum wage. For all contracts subject to Executive Order 13658, except for procurement contracts subject to the Federal Acquisition Regulation (FAR), the contracting agency shall include the Executive Order minimum wage contract clause set forth in appendix A of this part in all covered contracts and solicitations for such contracts, as described in § 10.3. The required contract clause directs, as a condition of payment, that all workers performing on covered contracts must be paid the applicable, currently effective minimum wage under Executive Order 13658 and § 10.5. For procurement contracts subject to the FAR, contracting agencies shall use the clause set forth in the FAR developed to implement this rule. Such clause shall accomplish the same purposes as the clause set forth in appendix A and shall be consistent with the requirements set forth in this rule.

Proposed § 10.11(b) states the consequences in the event that a contracting agency fails to include the contract clause in a covered contract. Proposed § 10.11(b) first provides that if a contracting agency made an erroneous determination that Executive Order 13658 or this part did not apply to a particular contract or failed to include the applicable contract clause in a contract to which the Executive Order applies, the contracting agency, on its own initiative or within 15 calendar days of notification by an authorized representative of the Department, shall include the clause in the contract retroactive to commencement of performance under the contract through the exercise of any and all authority that may be needed. The Administrator possesses analogous authority under the DBA, 29 CFR 1.6(f), and the Department believes a similar mechanism for addressing a failure to include the contract clause in a contract subject to the Executive Order will enhance its ability to obtain compliance with the Executive Order.

Proposed § 10.11(c) addresses the obligations of a contracting agency in the event that the contract clause has been included in a covered contract but the contractor may not have complied with its obligations under the Executive Order or this part. Specifically, proposed § 10.11(c) provides that the contracting agency shall, upon its own action or upon written request of an authorized representative of the Department, withhold or cause to be withheld from the prime contractor under the contract or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be necessary to pay workers the full amount of wages required by the Executive Order. Both the SCA and DBA provide for withholding to ensure the availability of monies for the payment of back wages to covered workers when a contractor or subcontractor has failed to pay the full amount of required wages. 29 CFR 4.6(i); 29 CFR 5.5(a)(2). Withholding likewise is an appropriate remedy under the Executive Order for all covered contracts because the Order directs the Department to adopt SCA and DBA enforcement processes to the extent practicable and to exercise authority to obtain compliance with the Order. 79 FR 9852. Consistent with withholding procedures under the SCA and DBA, proposed § 10.11(c) allows the contracting agency and the Department to withhold or cause to be withheld funds from the prime contractor not only under the contract on which covered workers were not paid the Executive Order minimum wage, but also under any other contract that the prime contractor has entered into with

the Federal Government. Finally, a withholding remedy is consistent with the requirement in section 2(a) of the Executive Order that compliance with the specified obligations is an express ''condition of payment'' to a contractor or subcontractor. 79 FR 9851.

Proposed § 10.11(d) describes a contracting agency's responsibility to forward to the WHD any complaint alleging a contractor's non-compliance with Executive Order 13658, as well as any information related to the complaint. Although the Department proposes in § 10.41 that complaints be filed with the WHD rather than with contracting agencies, the Department recognizes that some workers or other interested parties nonetheless may file formal or informal complaints concerning alleged violations of the Executive Order or this part with contracting agencies. Proposed § 10.11(d) therefore specifically requires the contracting agency to transmit the complaint-related information identified in § 10.11(d)(1)(ii)(A)–(E) to the WHD's Branch of Government Contracts Enforcement within 14 calendar days of receipt of a complaint alleging a violation of the Executive Order or this part, or within 14 calendar days of being contacted by the WHD regarding any such complaint. This language is substantially similar to an analogous provision in the Department's regulations implementing Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts. *See* 29 CFR 9.11(d). The Department believes adoption of the language in proposed § 10.11(d), which includes an obligation to transmit such complaint-related information to WHD even absent a specific request (*e.g.,* when a complaint is filed with a contracting agency rather than with WHD), is appropriate because prompt receipt of such information from the relevant contracting agency would allow the Department to fulfill its charge under the Order to implement enforcement mechanisms for obtaining compliance with the Order. 79 FR 9852.

Department of Labor Requirements

Proposed § 10.12 addresses the Department's requirements under the Executive Order. The Order requires the Secretary to establish a minimum wage that Federal contractors and subcontractors must pay to workers on covered contracts. 79 FR 9851. Proposed § 10.12(a) accordingly sets forth the Secretary's obligation to establish the Executive Order minimum wage on an annual basis in accordance with this Order. Proposed § 10.12(b) explains that the Secretary will determine the applicable minimum wages on an annual basis by utilizing methods set forth in § 10.5(b).

Section 10.12(c) explains how the Secretary will provide notice to contractors and subcontractors of the applicable minimum wages on an annual basis. Specifically, the Administrator of the WHD will publish a notice in the **Federal Register** on an annual basis at least 90 days before any new minimum wage is to take effect. Additionally, the Administrator will publish and maintain on Wage Determinations OnLine (WDOL), *www.wdol.gov,* or any successor Web site, the applicable minimum wage to be paid to workers on covered contracts, including the cash wage to be paid to tipped employees. The Administrator may also publish the applicable wage to be paid to workers on covered contracts, including the cash wage to be paid to tipped employees, on an annual basis at least 90 days before any such minimum wage is to take effect in any other media the Administrator deems appropriate.

Proposed § 10.12(d) addresses the WHD's obligation to notify a contractor in the event of a request for the withholding of funds. Under proposed § 10.11(c), the Administrator may direct that payments due on the covered contract or any other contract between the contractor and the Government may be withheld as may be considered necessary to pay unpaid wages. If the Administrator elects to exercise his authority under proposed § 10.11(c) to request withholding, proposed § 10.12(d) would require the Administrator or the contracting agency to notify the affected prime contractor of the Administrator's withholding request to the contracting agency.

Subpart C—Contractor Requirements

Contractor Requirements

Proposed Subpart C articulates the requirements that contractors must comply with under Executive Order 13658 and this part. This section sets forth the general obligation to pay no less than the applicable Executive Order minimum wage to workers for all time worked on or in connection with the covered contract, and to include the Executive Order minimum wage contract clause in subcontracts and lower-tiered contracts. Proposed Subpart C also sets forth contractor requirements pertaining to permissible deductions, frequency of pay, and recordkeeping, as well as a prohibition against taking kickbacks from wages paid on covered contracts.

Contract Clause

Proposed § 10.21(a) requires the contractor, as a condition of payment, to abide by the terms of the Executive Order minimum wage contract clause described in proposed § 10.11(a). The contract clause contains the obligations with which the contractor must comply on the covered contract and is reflective of the contractor's requirements as stated in the proposed regulations. Proposed § 10.21(b) articulates the obligation that contractors and subcontractors must insert the Executive Order minimum wage contract clause in any covered subcontracts and shall require, as a condition of payment, that subcontractors include the clause in all lower-tier subcontracts. Under the proposal, the prime contractor and upper-tier contractor will be responsible for compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage contract clause. This responsibility on the part of prime and upper-tier contractors for subcontractor compliance parallels that of the SCA and DBA. *See* 29 CFR 4.114(b) (SCA); 29 CFR 5.5(a)(6) (DBA).

Rate of Pay

Proposed § 10.22 addresses contractors' obligations to pay the Executive Order minimum wage to workers performing on a covered contract under Executive Order 13658. Proposed § 10.22(a) states the general obligation that contractors must pay workers on a covered contract the applicable minimum wage under Executive Order 13658 for all time spent performing work on the covered contract. Workers performing on contracts covered by the Executive Order must receive not less than the minimum hourly wage of $10.10 beginning January 1, 2015. In order to comply with the Executive Order's minimum wage requirement, a contractor may compensate workers on a daily, weekly, or other time basis, or by piece or task rates, so long as the measure of work and compensation used, when translated or reduced by computation to an hourly basis each workweek, will provide a rate per hour that is no lower than the applicable Executive Order minimum wage. Whatever system of payment is used, however, must ensure that each hour of work in performance of the contract is compensated at not less than the required minimum rate. Failure to pay for certain hours at the required rate cannot be transformed into compliance with the Executive Order or this part by reallocating portions of payments made

for other hours that are in excess of the specified minimum.

The Department believes that the principles, processes, and practices that it utilizes in its implementing regulations under the SCA, which incorporates by reference the principles applied under the FLSA as set forth in 29 CFR part 785, will be useful to contractors in determining and segregating hours worked on contracts with the Federal Government subject to the Executive Order. *See* 29 CFR 4.169, 4.178–79; WHD FOH ¶¶ 14c07, 14g00–01.[4] In determining whether a worker is performing within the scope of a covered contract, the Department proposes that all workers who, on or after the date of award, are engaged in working on or in connection with the contract, either in performing the specific services called for by its terms or in performing other duties necessary to the performance of the contract, are thus subject to the Executive Order and this part unless a specific exemption is applicable. This standard is derived from the SCA's implementing regulations at 29 CFR 4.150.

Because workers covered by the Executive Order are entitled to its minimum wage protections for all time worked in performance of a covered contract, a computation of their hours worked in each workweek on the covered contract is essential. *See* 29 CFR 4.178. For purposes of the Executive Order, the hours worked by a worker generally include all periods in which the worker is suffered or permitted to work, whether or not required to do so, and all time during which the worker is required to be on duty or to be on the employer's premises or to be at a prescribed workplace. *Id.* The hours worked which are subject to the minimum wage requirement of the Executive Order are those in which the worker is engaged in performing work on or in connection with a contract subject to the Executive Order. *Id.* However, unless such hours are adequately segregated or there is affirmative proof to the contrary that such work did not continue throughout the workweek, as discussed below, compensation in accordance with the Executive Order will be required for all hours of work in any workweek in which the worker performs any work in connection with a contract covered by the Executive Order. *Id.*

In situations where contractors are not exclusively engaged in contract work covered by the Executive Order, and there are adequate records segregating the periods in which work was performed on contracts subject to the Order from periods in which other work was performed, the minimum wage requirement of the Executive Order need not be paid for hours spent on work not covered by the Order. *See* 29 CFR 4.169. However, in the absence of records adequately segregating non-covered work from the work performed on or in connection with the covered contract, all workers working in the establishment or department where such covered work is performed shall be presumed to have worked on or in connection with the contract during the period of its performance, unless affirmative proof establishing the contrary is presented. *Id.* Similarly, in the absence of such records, a worker performing any work on or in connection with the covered contract in a workweek shall be presumed to have continued to perform such work throughout the workweek, unless affirmative proof establishing the contrary is presented. *Id.*

If a contractor desires to segregate covered work from non-covered work under the Executive Order for purposes of applying the minimum wage established in the Order, the contractor must therefore identify such covered work accurately in its records or by other means. *See* 29 CFR 4.169, 4.179; WHD FOH ¶ 14g00. In this regard, an arbitrary assignment of time on the basis of a formula, as between covered and non-covered work, is not sufficient. However, if the contractor does not wish to keep detailed hour-by-hour records for segregation purposes under the Executive Order, records can be segregated on the wider basis of departments, work shifts, days, or weeks in which covered work was performed. For example, if on a given day no work covered by the Executive Order was performed by a contractor that day could be segregated and shown in the records. *See* WHD FOH ¶ 14g00.

Finally, the Department notes that the Supreme Court has held that when an employer has failed to keep adequate or accurate records of employees' hours under the FLSA, employees should not effectively be penalized by denying them recovery of back wages on the ground that the precise extent of their uncompensated work cannot be established. *See Anderson* v. *Mt. Clemens Pottery Co.,* 328 U.S. 680, 687 (1946). Specifically, the Supreme Court concluded that where an employer has not maintained adequate or accurate records of hours worked, an employee need only prove that ''he has in fact performed work for which he was improperly compensated'' and produce ''sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference.'' *Id.* Once the employee establishes the amount of uncompensated work as a matter of ''just and reasonable inference,'' the burden then shifts to the employer ''to come forward with evidence of the precise amount of work performed or with evidence to negative the reasonableness of the inference to be drawn from the employee's evidence.'' Id. at 687–88. If the employer fails to meet this burden, the court may award damages to the employee ''even though the result be only approximate.'' *Id.* at 688. These principles for determining hours worked and accompanying back wage liability apply with equal force to the Executive Order.

Proposed § 10.22(a) explains that the contractor's obligation to pay the applicable minimum wage to workers on covered contracts does not excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under Executive Order 13658. This provision implements section 2(c) of the Executive Order, which states that the Order does not relieve the contractor or any subcontractor under the contract from compliance with a higher wage obligation to workers under any other Federal, State, or local law. 79 FR 9851.

The Department notes that the minimum wage requirements of Executive Order 13658 are separate and distinct legal obligations from the prevailing wage requirements of the SCA and the DBA. If a contract is covered by the SCA or DBA and the wage rate on the applicable SCA or DBA wage determination for the classification of work the worker performs is less than the applicable Executive Order minimum wage, the contractor must pay the Executive Order minimum wage in order to comply with the Order and this part. If, however, the applicable SCA or DBA prevailing wage rate exceeds the Executive Order minimum wage rate, the contractor must pay that prevailing wage rate to the SCA- or DBA-covered worker in order to be in compliance with the SCA or DBA.

The minimum wage requirements of Executive Order 13658 are also separate and distinct from the commensurate wage rates under 29 U.S.C. 214(c). If the

[4] Contractors subject to the Executive Order are likely already familiar with these segregation principles and should, as a matter of usual business practices, already have recordkeeping systems in place that enable the segregation of hours worked on different contracts or at different locations. The Department believes that such systems will enable contractors to identify and pay for hours worked subject to the Executive Order without having to employ an additional systems or processes.

commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. The Department notes that if the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

Proposed § 10.22(b) explains how the contractor's obligation to pay the applicable Executive Order minimum wage applies to workers who receive fringe benefits. Pursuant to the Executive Order and this part, a contractor may not discharge any part of its minimum wage obligation under the Executive Order by furnishing fringe benefits (or, with respect to workers whose wages are governed by the SCA, the cash equivalent thereof). Under this proposal and for the reasons discussed below, contractors must pay the Executive Order minimum wage rate in monetary wages, and may not receive credit for the cost of fringe benefits provided.

Executive Order 13658 increases, initially to $10.10, ''the hourly minimum wage'' paid by contractors with the Federal Government. 79 FR 9851. By repeatedly referencing that it is establishing a higher hourly minimum wage, without any reference to fringe benefits, the text of the Executive Order makes clear that a contractor cannot discharge its minimum wage obligation by furnishing fringe benefits. This interpretation is consistent with the SCA, which does not permit a contractor to meet its minimum wage obligation through the furnishing of fringe benefits, but rather imposes distinct ''minimum wage'' and ''fringe benefit'' obligations on contractors. 41 U.S.C. 6703(1)–(2); 29 CFR 4.177(a). Similarly, the FLSA does not allow a contractor to meet its minimum wage obligation through the furnishing of fringe benefits. Although the DBA specifically includes fringe benefits within its definition of minimum wage, thereby allowing a contractor to meet its minimum wage obligation, in part, through the furnishing of fringe benefits, 40 U.S.C. 3141(2), Executive Order 13658 contains no similar provision expressly authorizing a contractor to discharge its Executive Order minimum wage obligation through the furnishing of fringe benefits. Consistent with the Executive Order, proposed § 10.22(b) would accordingly preclude a contractor from discharging its minimum wage obligation by furnishing fringe benefits.

Proposed § 10.22(b) also prohibits a contractor from discharging its minimum wage obligation to workers whose wages are governed by the SCA by providing the cash equivalent of fringe benefits. As discussed above, the SCA imposes distinct ''minimum wage'' and ''fringe benefit'' obligations on contractors. 41 U.S.C. 6703(1)–(2). A contractor cannot satisfy any portion of its SCA minimum wage obligation through the provision of fringe benefit payments or cash equivalents furnished or paid pursuant to 41 U.S.C. 6703(2). *See also* 29 CFR 4.177(a). Consistent with the treatment of fringe benefit payments or their cash equivalents under the SCA, proposed § 10.22(b) would not allow contractors to discharge any portion of their minimum wage obligation under the Executive Order to workers whose wages are governed by the SCA through the provision of either fringe benefits or their cash equivalent.

Proposed § 10.22(c) states that a contractor may satisfy the wage payment obligation to a tipped employee under the Executive Order through a combination of an hourly cash wage and a credit based on tips received by such employee pursuant to the provisions in proposed § 10.28.

Proposed § 10.23 explains that deductions that reduce a worker's wages below the Executive Order minimum wage rate may only be made under the limited circumstances set forth in this section. Proposed § 10.23 permits deductions required by Federal, State, or local law, including Federal or State withholding of income taxes. *See* 29 CFR 531.38 (FLSA); 29 CFR 4.168(a) (SCA); 29 CFR 5.5(a)(1) (DBA). This proposed provision would permit deductions for payments made to third parties pursuant to court orders. Permissible deductions made pursuant to a court order may include such deductions as those made for child support. *See* 29 CFR 531.39 (FLSA); 29 CFR 4.168(a) (SCA); 29 CFR 5.5(a)(1) (DBA). It also permits deductions directed by a voluntary assignment of the worker or his or her authorized representative. *See* 29 CFR 531.40 (FLSA); 29 CFR 4.168(a) (SCA); 29 CFR 5.5(a)(1) (DBA). Deductions made for voluntary assignments include items such as, but not limited to, deductions for the purchase of U.S. savings bonds, donations to charitable organizations, and the payment of union dues. Deductions made for voluntary assignments must be made for the worker's account and benefit pursuant to the request of the worker or his or her authorized representative. *See* 29 CFR 531.40 (FLSA); 29 CFR 4.168(a) (SCA); 29 CFR 5.5(a)(1) (DBA). Finally, the Department proposes to permit deductions made for the reasonable cost or fair value of board, lodging, and other facilities. *See* 29 CFR part 531 (FLSA); 29 CFR 4.168(a) (SCA); 29 CFR 5.5(a)(1) (DBA). Deductions made for these items must be in compliance with the regulations in 29 CFR part 531. The Department notes that an employer may take credit for the reasonable cost or fair value of board, lodging, or other facilities against a worker's wages, rather than taking a deduction for the reasonable cost or fair value of these items. *See* 29 CFR part 531.

Proposed § 10.24(a) explains that workers who are covered under the FLSA or the Contract Work Hours and Safety Standards Act (CWHSSA) must receive overtime pay of not less than one and one-half times the regular hourly rate of pay or basic rate of pay for all hours worked over 40 hours in a workweek. *See* 29 U.S.C. 207(a), 40 U.S.C. 3702(a). These statutes, however, do not require workers to be compensated on an hourly rate basis; workers may be paid on a daily, weekly, or other time basis; or by piece rates, task rates, salary, or some other basis, so long as the measure of work and compensation used, when reduced by computation to an hourly basis each workweek, will provide a rate per hour (*i.e.,* the regular rate of pay) that will fulfill the requirements of the Executive Order or applicable statute. The regular rate of pay is generally determined by dividing the worker's total earnings in any workweek by the total number of hours actually worked by the worker in that workweek for which such compensation was paid. *See* 29 CFR 778.5-.7; .105, .107, .109; 29 CFR 4.166, 4.180-.182; 29 CFR 5.32(a).

Proposed § 10.24(b) addresses the payment of overtime premiums to tipped employees who are paid with a tip credit. In calculating overtime payments, the regular rate of an employee paid with a tip credit consists of both the cash wages paid and the amount of the tip credit taken by the contractor. Overtime payments are not computed based solely on the cash wage paid; for example, if after January 1, 2015, a contractor pays a tipped employee performing on a covered contract a cash wage of $4.90 and claims a tip credit of $5.20, the worker is entitled to $15.15 per hour for each overtime hour ($10.10 × 1.5), not $7.35 ($4.90 × 1.5). A contractor may not claim a higher tip credit in an overtime hour than in a straight time hour. Accordingly, as of January 1, 2015 for

contracts covered by the Executive Order, if a contractor pays the minimum cash wage of $4.90 per hour and claims a tip credit of $5.20 per hour, then the cash wage due for each overtime hour would be $9.95 ($15.15 − $5.20). Tips received by a tipped employee in excess of the amount of the tip credit claimed are not considered to be wages under the Executive Order and are not included in calculating the regular rate for overtime payments.

Proposed § 10.25 describes how frequently the contractor must pay its workers. Under the proposed rule, wages shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. Proposed § 10.25 also provides that a pay period under the Executive Order may not be of any duration longer than semi-monthly. (The Department notes that workers whose wages are governed by the DBA must be paid no less often than once a week and reiterates that compliance with the Executive Order does not excuse noncompliance with applicable FLSA, SCA, or DBA requirements.) These provisions are derived from the contract clauses applicable to contracts subject to the SCA and the DBA, *see* 29 CFR 4.6(h) (SCA); 29 CFR 5.5(a)(1) (DBA). While the FLSA does not specify a minimum pay period duration, WHD believes this will not be a burden for FLSA-covered employers as WHD experience suggests that most covered employers pay no less frequently than semi-monthly.

Proposed § 10.26 explains the recordkeeping and related requirements for contractors. The obligations set forth in proposed § 10.26 are derived from the FLSA, SCA, and DBA. *See* 29 CFR part 516 (FLSA); 29 CFR 4.6(g) (SCA); 29 CFR 5.5(a)(3) (DBA). Proposed § 10.26(a) states that contractors and subcontractors shall make and maintain, for three years, records containing the information enumerated in the proposed § 10.26(a)(1)–(4) for each worker: Name, address, and Social Security number; the rate or rates of wages paid to the worker; the number of daily and weekly hours worked by each worker; and any deductions made. The records required to be kept by contractors pursuant to this part are coextensive with recordkeeping requirements that already exist under, and are consistent across, the FLSA, SCA, and DBA; as a result, compliance by a covered contractor with these payroll records obligations will not impose any obligations to which the contractor is not already subject under the FLSA, SCA, or DBA. This proposed section further provides that the contractor and each subcontractor performing work subject to the Executive Order shall make such records available for inspection and transcription by authorized representatives of the WHD.

Proposed § 10.26(b) requires the contractor to permit authorized representatives of the WHD to conduct interviews of workers at the worksite during normal working hours. Proposed § 10.26(c) provides that nothing in this part limits or otherwise modifies a contractor's payroll and recordkeeping obligations, if any, under the FLSA, SCA, or DBA, or their implementing regulations, respectively.

Proposed § 10.27 makes clear that all wages paid to workers performing on covered contracts must be paid free and clear and without subsequent deduction (unless set forth in proposed § 10.23), rebate, or kickback on any account. Kickbacks directly or indirectly to the contractor or to another person for the benefit the contractor for the whole or part of the wage are also prohibited. This proposal is intended to ensure full payment of the applicable Executive Order minimum wage to covered workers.

Proposed § 10.28 explains how tipped workers must be compensated under the Executive Order on covered contracts. Section 3 of the Executive Order governs how the minimum wage for Federal contractors and subcontractors applies to tipped employees. Section 3 of the Order provides: (a) For workers covered by section 2 of this order who are tipped employees pursuant to 29 U.S.C. 203(t), the hourly cash wage that must be paid by an employer to such workers shall be at least: (i) $4.90 an hour, beginning on January 1, 2015; (ii) for each succeeding 1-year period [beginning on January 1, 2016] until the hourly cash wage under this section equals 70 percent of the wage in effect under section 2 of this order for such period, an hourly cash wage equal to the amount determined under this section for the preceding year, increased by the lesser of: (A) $0.95; or (B) the amount necessary for the hourly cash wage under this section to equal 70 percent of the wage under section 2 of this order; and (iii) for each subsequent year, 70 percent of the wage in effect under section 2 for such year rounded to the nearest multiple of $0.05; (b) Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of this order, the cash wage paid by the employer, as set forth in this section for those workers, shall be increased such that their wages equal the minimum wage under section 2 of this order. Consistent with applicable law, if the wage required to be paid under the Service Contract Act, 41 U.S.C. 6701 *et seq.,* or any other applicable law or regulation is higher than the wage required by section 2, the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

Accordingly, as of January 1, 2015, section 3 of the Executive Order requires contractors to pay tipped employees covered by the Executive Order performing on covered contracts a cash wage of at least $4.90, provided the employees receive sufficient tips to equal the minimum wage under section 2 when combined with the cash wage. In each succeeding year, beginning January 1, 2016, the required cash wage increases by $0.95 (or a lesser amount if necessary) until it reaches 70 percent of the minimum wage under section 2 of the Executive Order. For subsequent years, the cash wage for tipped employees is 70 percent of the Executive Order minimum wage rounded to the nearest $0.05. At all times, the amount of tips received by the employee must equal at least the difference between the cash wage paid and the Executive Order minimum wage; if the employee does not receive sufficient tips, the contractor must increase the cash wage paid so that the cash wage in combination with the tips received equals the Executive Order minimum wage. If the contractor is required to pay a wage higher than the Executive Order minimum wage by the Service Contract Act or other applicable law or regulation, the contractor must pay additional cash wages equal to the difference between the higher required wage and the Executive Order minimum wage.

For purposes of the Executive Order and this part, tipped workers (or tipped employees) are defined by section 3(t) of the FLSA. 29 U.S.C. 203(t). The FLSA defines a tipped employee as ''any employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.'' *Id.* Section 3 of the Executive Order sets forth a wage payment method for tipped employees that is similar to the tipped employee wage provision of the FLSA. 29 U.S.C. 203(m). As with the FLSA ''tip credit'' provision, the Executive Order permits contractors to take a partial credit against their wage payment obligation to a tipped employee under the Order based on tips received by the employee. The wage paid to the tipped employee comprises both the cash wage paid under section 3(a) of the Executive Order and the

amount of tips used for the tip credit, which is limited to the difference between the cash wage paid and the Executive Order minimum wage. Because contractors with a contract subject to the Executive Order may be required by the SCA or any other applicable law or regulation to pay a wage in excess of the Executive Order minimum wage, section 3(b) of the Order provides that in such circumstances contractors must pay the difference between the Executive Order minimum wage and the higher required wage in cash to the tipped employees and may not make up the difference with additional tip credit.

In the proposed regulations implementing section 3 of the Executive Order, the Department has set forth procedures that closely follow the FLSA requirements for payment of tipped employees with which employers are already familiar. This is consistent with the directive in section 4(c) of the Executive Order that regulations issued pursuant to the order should, to the extent practicable, incorporate existing procedures from the FLSA, SCA and DBA. 79 FR 9852. In an effort to assist contractors who employ tipped workers and avoid the need for extensive cross references to the FLSA tip credit regulations, the requirements for paying tipped employees under the Executive Order have been fully set forth in proposed § 10.28. The Department has also sought to use plain language in the proposed tipped employee regulations to make clear contractors' wage payment obligations to tipped employees under the Executive Order.

Section 10.28(a) of the proposed regulations sets forth the provisions of section 3 of the Executive Order explaining contractors' wage payment obligation under section 2 to tipped employees. Proposed § 10.28(a)(1) and (2) makes clear that the wage paid to a tipped employee under section 2 of the Executive Order is composed of two components: a cash wage payment (which must be at least $4.90 as of January 1, 2015 and rises yearly thereafter) and a credit based on tips (tip credit) received by the worker equal to the difference between the cash wage paid and the Executive Order minimum wage. Accordingly, on January 1, 2015, if a contractor pays a tipped employee performing on a covered contract a cash wage of $4.90 per hour, the contractor may claim a tip credit of $5.20 per hour (assuming the worker receives at least $5.20 per hour in tips). Under no circumstances may a contractor claim a higher tip credit than the difference between the required cash wage and the Executive Order minimum wage; contractors may, however, pay a higher cash wage than required by section 3 and claim a lower tip credit. Because the sum of the cash wage paid and the tip credit equals the Executive Order minimum wage, any increase in the amount of the cash wage paid will result in a corresponding decrease in the amount of tip credit that may be claimed, except as provided in proposed § 10.28(a)(4). For example, if on January 1, 2015, a contractor on a contract subject to the Executive Order paid a tipped worker a cash wage of $5.50 per hour instead of the minimum requirement of $4.90, the contractor would only be able to claim a tip credit of $4.60 per hour to reach the $10.10 Executive Order minimum wage. If the tipped employee does not receive sufficient tips in the workweek to equal the amount of the tip credit claimed, the contractor must increase the cash wage paid so that the amount of cash wage paid and tips received by the employee equal the section 2 minimum wage for all hours in the workweek.

Proposed § 10.28(a)(3) makes clear that a contractor may pay a higher cash wage than required by subsection (3)(a)(i) of the Executive Order—and claim a correspondingly lower tip credit—but may not pay a lower cash wage than that required by section 3(a)(i) of the Executive Order and claim a higher tip credit. In order for the contractor to claim a tip credit the employee must receive tips equal to at least the amount of the credit claimed. If the employee receives less in tips than the amount of the credit claimed, the contractor must pay the additional cash wages necessary to ensure the employee receives the Executive Order minimum wage in effect under section 2 on the regular pay day.

Proposed § 10.28(a)(4) sets forth the contractors' wage payment obligation when the wage required to be paid under the SCA or any other applicable law or regulation is higher than the Executive Order minimum wage. In such circumstances, the contractor must pay the tipped employee additional cash wages equal to the difference between the Executive Order minimum wage and the highest wage required to be paid by other applicable State or Federal law or regulation. This additional cash wage is on top of the cash wage paid under § 10.28(a)(1) and any tip credit claimed. Unlike raising the cash wage paid under § 10.28(a)(1), additional cash wages paid under § 10.28(a)(4) do not impact the calculation of the amount of tip credit the employer may claim.

Proposed § 10.28(b) follows section 3(t) of the FLSA, 29 U.S.C. 203(t), in defining a *tipped employee* as one who customarily and regularly receives more than $30 a month in tips. If an employee receives less than that amount, he or she is not considered a tipped employee and is entitled to not less than the full Executive Order minimum wage in cash. Workers may be considered tipped employees regardless of whether they work full time or part time, but the amount of tips required per month to be considered a tipped employee is not prorated for part time workers. Only the tips actually retained by the employee may be considered in determining if he or she is a tipped employee (*i.e.,* only tips retained after any redistribution of tips through a valid tip pool). As explained in proposed § 10.28(b), the tip credit may only be taken for hours an employee works in a tipped occupation. Accordingly, where a worker works in both a tipped and a non-tipped occupation for the contractor (dual jobs), the tip credit may only be used for the hours worked in the tipped occupation and no tip credit may be taken for the hours worked in the non-tipped occupation. The tip credit, however, may be used for time spent performing incidental activities related to the tipped occupation that do not directly produce tips, such as cleaning tables and filling salt shakers, etc.

Proposed § 10.28(c) defines what constitutes a tip. Consistent with common understanding, a tip is defined as a sum presented by a customer in recognition of a service performed for the customer. Whether a tip is to be given and its amount are determined solely by the customer. Thus, a tip is different from a fixed charge assessed by a business for service. Tips may be made in cash presented to, or left for, the worker, or may be designated on a credit card bill or other electronic payment. Gifts that are not cash equivalents are not considered to be tips for purposes of wage payments under the Executive Order. A contractor with a contract subject to the Executive Order is prohibited from using an employee's tips, whether it has claimed a tip credit or not, for any reason other than as a credit against the contractor's wage payment obligations under section 3 of the Executive Order, or in furtherance of a valid tip pool. Employees and contractors may not agree to waive the employee's right to retain his or her tips.

Proposed § 10.28(d) addresses payments that are not considered to be tips. Paragraph (d)(1) addresses compulsory service charges added to a bill by the business, which are not considered tips. Compulsory service charges are considered to be part of the business' gross receipts and, even if

distributed to the worker, cannot be counted as tips for purposes of determining if a worker is a tipped employee. Paragraph (d)(2) of this section addresses a contractor's use of service charges to pay wages to tipped employees. Where the contractor distributes compulsory service charges to workers the money will be considered wages paid to the worker and may be used in their entirety to satisfy the minimum wage payment obligation under the Executive Order.

Proposed § 10.28(e) addresses a common practice at many tipped workplaces of pooling all or a portion of employees' tips and redistributing them to other employees. Contractors may not use employees' tips to supplement the wages paid to non-tipped employees. Accordingly, a valid tip pool may only include workers who customarily and regularly receive tips; inclusion of employees who do not receive tips such as ''back of the house'' workers (dishwashers, cooks, etc.), will invalidate the tip pool and result in denial of the tip credit for any tipped employees who contributed to the invalid tip pool. A contractor that requires tipped employees to participate in a tip pool must notify workers of any required contribution to the tip pool, may only take a credit for the amount of tips ultimately received by a tipped employee, and may not retain any portion of the employee's tips for any other purpose.

Proposed § 10.28(f) addresses the requirements for a contractor with a contract subject to the Executive Order to avail itself of a tip credit in paying wages to a tipped employee under the Executive Order. These requirements follow the requirements for taking a tip credit under the FLSA and are familiar to employers of tipped employees. Before a contractor may claim a tip credit it must inform the tipped employee of the amount of the cash wage that will be paid; the additional amount of tip credit that will be claimed in determining the wages paid to the employee; that the amount of tip credit claimed may not be greater than the amount of tips received by the employee in the workweek and that the contractor has the obligation to increase the cash wage paid in any workweek in which the employee does not receive sufficient tips; that all tips received by the worker must be retained by the employee except for tips that are redistributed through a valid tip pool and the amount required to be contributed to any such pool; and that the contractor may not claim a tip credit for any employee who has not been informed of its use of the tip credit.

Subpart D—Enforcement

Section 5 of Executive Order 13658, titled ''Enforcement,'' grants the Secretary ''authority for investigating potential violations of and obtaining compliance with th[e] order.'' 79 FR 9852. Section 4(c) of the Order directs that the regulations the Secretary issues should, to the extent practicable, incorporate existing procedures, remedies, and enforcement processes under the FLSA, SCA and DBA. *Id.* The Department has adhered to these two requirements in drafting proposed subpart D.

Specifically, consistent with the Secretary's authority to obtain compliance with the Order, as well as the Secretary's obligation to promulgate implementing regulations that incorporate, to the extent practicable, existing procedures, remedies, and enforcement processes under the FLSA, SCA, and DBA, subpart D of this part incorporates FLSA, SCA, and DBA remedies, procedures, and enforcement processes that the Department believes will facilitate investigations of potential violations of the Order, address and remedy violations of the Order, and promote compliance with the Order. Most of the enforcement procedures and remedies contained in this part therefore are based on the statutory text or implementing regulations of the FLSA, SCA, and DBA. The Department also proposes to adopt, in instances where it is appropriate, enforcement procedures set forth in the Department's regulations implementing Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts. *See* 29 CFR part 9.

Proposed § 10.41 establishes the procedure for filing complaints. Section 10.41(a) outlines the procedure to file a complaint with any office of the WHD. It additionally provides that a complaint may be filed orally or in writing and that the WHD will accept a complaint in any language if the complainant is unable to file in English. Section 10.41(b) states the well-established policy of the Department with respect to confidential sources. *See* 29 CFR 4.191(a); 29 CFR 5.6(a)(5).

Proposed § 10.42 establishes an informal complaint resolution process for complaints filed with the WHD. The provision would allow WHD, after obtaining the necessary information from the complainant regarding the alleged violations, to contact the party against whom the complaint is lodged and attempt to reach an acceptable resolution through conciliation.

Proposed § 10.43, which is derived primarily from regulations implementing the SCA and the DBA, *see* 29 CFR 4.6(g)(4) and 29 CFR 5.6(b), outlines WHD's investigative authority. Proposed § 10.43 permits the Administrator to initiate an investigation either as the result of a complaint or at any time on his or her own initiative. As part of the investigation, the Administrator would be able to inspect the relevant records of the applicable contractors (and make copies or transcriptions thereof) as well as interview the contractors. The Administrator would additionally be able to interview any of the contractors' workers at the worksite during normal work hours, and require the production of any documentary or other evidence deemed necessary to determine whether a violation of this part (including conduct warranting imposition of debarment) has occurred. The section would also require Federal agencies and contractors to cooperate with authorized representatives of the Department in the inspection of records, in interviews with workers, and in all aspects of investigations.

Proposed § 10.44 discusses remedies and sanctions. Proposed § 10.44(a), which is derived from the back wage and withholding provisions of the SCA and the DBA, provides that when the Administrator determines a contractor has failed to pay the Executive Order's minimum wage to workers, the Administrator will notify the contractor and the contracting agency of the violation and request the contractor to remedy the violation. It additionally states that if the contractor does not remedy the violation, the Administrator will direct the contractor to pay all unpaid wages in the Administrator's investigation findings letter issued pursuant to proposed § 10.51. Proposed § 10.44(a) further provides that the Administrator may additionally direct that payments due on the contract or any other contract between the contractor and the Government be withheld as necessary to pay unpaid wages, and that, upon the final order of the Secretary that unpaid wages are due, the Administrator may direct the relevant contracting agency to transfer the withheld funds to the Department for disbursement.

Proposed § 10.44(b), which is derived from the FLSA's antiretaliation provision set forth at 29 U.S.C. 215(a)(3) as well as 29 U.S.C. 216(b)(2) of the FLSA, provides that the Administrator may provide for any relief appropriate, including employment, reinstatement, promotion and payment of unpaid wages, when the Administrator determines that any person has discharged or in any other manner

retaliated against a worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or has testified or is about to testify in any such proceeding. For the reasons described in the preamble to subpart A, the Department believes that such a provision will promote compliance with the Executive Order.

Proposed § 10.44(c) provides that if the Administrator determines a contractor has disregarded its obligations to workers under the Executive Order or this part, a standard the Department derived from the DBA implementing regulations at 29 CFR 5.12(a)(2), the Secretary shall order that the contractor and its responsible officers, and any firm, corporation, partnership, or association in which the contractor or responsible officers have an interest, shall be ineligible to be awarded any contract or subcontract subject to the Executive Order for a period of up to three years from the date of publication of the name of the contractor or person(s) on the ineligible list. Proposed § 10.44(c) further provides that neither an order for debarment of any contractor or responsible officer from further Government contracts under this section nor the inclusion of a contractor or its responsible officers on a published list of noncomplying contractors shall be carried out without affording the contractor or responsible officers an opportunity for a hearing.

This proposed debarment provision is derived from the debarment provisions of the SCA and the DBA and reflects both the Executive Order's instruction that the Department incorporate remedies from the FLSA, SCA, and DBA to the extent practicable and the Executive Order's conferral of authority on the Secretary to adopt an enforcement scheme that will both remedy violations and obtain compliance with the Order. Debarment is a long-established remedy for a contractor's failure to fulfill its labor standard obligations under the SCA and the DBA. 40 U.S.C. 3144(b); 41 U.S.C. 6706(b); 29 CFR 5.5(a)(7); 29 CFR 5.12(a)(2); 29 CFR 4.188(a). The possibility that a contractor will be unable to obtain government contracts for a fixed period of time due to debarment promotes contractor compliance with the SCA and DBA. Since the government contract statutes whose remedies the Executive Order instructs the Department to incorporate include a debarment remedy to promote contractor compliance, the Department has also included debarment as a remedy for certain violations of the Executive Order by covered contractors.

Proposed § 10.44(d), which is derived from the SCA, 41 U.S.C. 6705(b)(2), allows for initiation of an action, following a final order of the Secretary, against a contractor in any court of competent jurisdiction to collect underpayments when the amounts withheld under § 10.11(c) are insufficient to reimburse workers' lost wages. Proposed § 10.44(d) also authorizes initiation of an action, following the final order of the Secretary, in any court of competent jurisdiction when there are no payments available to withhold. For example, the Executive Order will cover concessions contracts (and possibly other contracts) under which the contractor may not receive payments from the Federal Government; similarly, in some instances the Administrator may be unable to direct withholding of funds because at the time it discovers a contractor owes wages to workers no payments remain owing under the contract or another contract between the same contractor and the Federal Government. With respect to such contractors, there will be no funds to withhold. Proposed section § 10.44(d) allows the Department to pursue an action in any court of competent jurisdiction to collect underpayments against such contractors. Proposed § 10.44(d) additionally provides that any sums the Department recovers shall be paid to affected workers to the extent possible, but that sums not paid to workers because of an inability to do so within three years shall be transferred into the Treasury of the United States.

Proposed § 10.44(e) addresses what remedy is available when a contracting agency fails to include the contract clause in a contract subject to the Executive Order. The section would provide that the contracting agency shall on its own initiative or within 15 calendar days of notification by the Department, incorporate the clause retroactive to commencement of performance under the contract through the exercise of any and all authority necessary. This clause would provide the Administrator authority to collect underpayments on behalf of affected workers on the applicable contract retroactive to commencement of performance under the contract. The Administrator possesses comparable authority under the DBA, 29 CFR 1.6(f), and the Department believes a similar mechanism for addressing a failure to include the contract clause in a contract subject to the Executive Order will further the interest in both remedying violations and obtaining compliance with the Executive Order.

Finally, as noted in the preamble to subpart A, the Executive Order covers certain non-procurement contracts. Because the FAR does not apply to all contracts covered by the Executive Order, there will be instances where, pursuant to section 4(b) of the Executive Order, a contracting agency takes steps to the extent permitted by law, including but not limited to insertion of the contract clause set forth in appendix A, to exercise any applicable authority to ensure that covered contracts as described in section 7(d)(1)(C) and(D) of this order comply with the requirements set forth in sections 2 and 3 of the Executive Order, including payment of the Executive Order minimum wage. In such instances, the enforcement provisions contained in subpart D (as well as the remainder of this part) fully apply to the covered contract, consistent with the Secretary's authority under section 5 of the Executive Order to investigate potential violations of, and obtain compliance with, the Order.

Subpart E—Administrative Proceedings

As discussed with respect to proposed subpart D, section 5 of Executive Order 13658, titled ''Enforcement,'' grants the Secretary ''authority for investigating potential violations of and obtaining compliance with th[e] order.'' 79 FR 9852. Section 4(c) of the Order directs that the regulations the Secretary issues should, to the extent practicable, incorporate existing procedures, remedies, and enforcement processes under the FLSA, SCA and DBA. *Id.* The Department has adhered to these two requirements in drafting proposed subpart E.

Specifically, subpart E of this part incorporates, to the extent practicable, the DBA and SCA administrative procedures necessary to remedy potential violations and ensure compliance with the Executive Order. The administrative procedures included in this subpart also closely adhere to existing practices of the Office of Administrative Law Judges and the Administrative Review Board.

Proposed § 10.51, which is derived primarily from 29 CFR 5.11 addresses how the Administrator will process disputes regarding a contractor's compliance with this part. Proposed § 10.51(a) provides that the Administrator or a contractor may initiate a proceeding covered by § 10.51. Proposed § 10.51(b)(1) provides that when it appears that relevant facts are at issue in a dispute covered by § 10.51(a), the Administrator will notify the affected contractor (and the prime

contractor, if different) of the investigation's findings by certified mail to the last known address. If the Administrator determines there are reasonable grounds to believe the contractor(s) should be subject to debarment, the investigative findings letter will so indicate.

Proposed § 10.51(b)(2) requires a contractor desiring a hearing concerning the investigative findings letter to request a hearing by letter postmarked within 30 calendar days of the date of the Administrator's letter. It further requires the request to set forth those findings which are in dispute with respect to the violation(s) and/or debarment, as appropriate, and to explain how such findings are in dispute, including by reference to any applicable affirmative defenses.

Proposed § 10.51(b)(3) requires the Administrator, upon receipt of a timely request for hearing, to refer the matter to the Chief Administrative Law Judge by Order of Reference for designation of an ALJ to conduct such hearings as may be necessary to resolve the disputed matter in accordance with the procedures set forth in 29 CFR part 6. It also requires the Administrator to attach a copy of the Administrator's letter, and the response thereto, to the Order of Reference that the Administrator sends to the Chief Administrative Law Judge.

Proposed § 10.51(c)(1) applies when it appears there are no relevant facts at issue and there is not at that time reasonable cause to institute debarment proceedings. It requires the Administrator to notify the contractor, by certified mail to the last known address, of the investigative findings and to issue a ruling on any issues of law known to be in dispute. Proposed § 10.51(c)(2)(i) applies when a contractor disagrees with the Administrator's factual findings or believes there are relevant facts in dispute. It would allow the contractor to advise the Administrator of such disagreement by letter postmarked within 30 calendar days of the date of the Administrator's letter. The response would have to explain in detail the facts alleged to be in dispute and attach any supporting documentation.

Proposed § 10.51(c)(2)(ii) requires the Administrator to examine the information submitted in the response alleging the existence of a factual dispute. Where the Administrator determines there is a relevant issue of fact, the Administrator will refer the case to the Chief Administrative Law Judge as under § 10.51(b)(3). If the Administrator determines there is no relevant issue of fact, the Administrator shall so rule and advise the contractor(s) accordingly.

Proposed § 10.51(d) provides that the Administrator's investigative findings letter shall become the final order of the Secretary if a timely response to the letter is not made or a timely petition for review is not filed. It additionally provides if a timely response or a timely petition for review is filed, the investigative findings letter shall be inoperative unless and until the decision is upheld by the ALJ or the ARB, or the letter otherwise becomes a final order to the Secretary.

Proposed § 10.52, which is primarily derived from 29 CFR 5.12, addresses debarment proceedings. Proposed § 10.52(a)(1) provides that whenever any contractor is found by the Administrator to have disregarded its obligations to workers or subcontractors under Executive Order 13658 or this part, such contractor and its responsible officers, and/or any firm, corporation, partnership, or association in which such contractor or responsible officers have an interest, shall be ineligible for a period of up to three years to receive any contracts or subcontracts subject to the Executive Order from the date of publication of the name or names of the contractor or persons on the ineligible list.

Proposed § 10.52(b)(1) provides that where the Administrator finds reasonable cause to believe a contractor has committed a violation of the Executive Order or this part that constitutes a disregard of its obligations to its workers or subcontractors, the Administrator will notify by certified mail to the last known address the contractor and its responsible officers (and/or any firms, corporations, partnerships, or associations in which the contractor or responsible officers is known to have an interest) of the finding. Pursuant to § 10.52(b)(1), the Administrator must additionally furnish those notified a summary of the investigative findings and afford them an opportunity for a hearing regarding the debarment issue. Those notified must request a hearing on the debarment issue, if desired, by letter to the Administrator postmarked within 30 calendar days of the date of the letter from the Administrator. The letter requesting a hearing must set forth any findings which are in dispute and the reasons therefore, including any affirmative defenses to be raised. Proposed § 10.52(b)(1) also requires the Administrator, upon receipt of a timely request for hearing, to refer the matter to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the Administrator's investigative findings letter and the response thereto, for designation to an ALJ to conduct such hearings as may be necessary to determine the matters in dispute. Proposed § 10.52(b)(2) provides that hearings under § 10.52 shall be conducted in accordance with 29 CFR part 6. If no timely request for hearing is received, the Administrator's findings shall become the final order of the Secretary.

Proposed § 10.53 is derived from the SCA and DBA rules of practice for administrative proceedings in 29 CFR part 6. Proposed § 10.53(a) provides that upon receipt of a timely request for a hearing under § 10.51 (where the Administrator has determined that relevant facts are in dispute) or § 10.52 (debarment), the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the investigative findings letter from the Administrator and the response thereto, for designation of an ALJ to conduct such hearings as may be necessary to decide the disputed matters. It further provides that a copy of the Order of Reference and attachments thereto shall be served upon the respondent and that the investigative findings letter and the response thereto shall be given the effect of a complaint and answer, respectively, for purposes of the administrative proceeding.

Proposed § 10.53(b) states that at any time prior to the closing of the hearing record, the complaint or answer may be amended with permission of the ALJ upon such terms as he/she shall approve, and that for proceedings initiated pursuant to § 10.51, such an amendment may include a statement that debarment action is warranted under § 10.52. It further provides that such amendments shall be allowed when justice and the presentation of the merits are served thereby, provided there is no prejudice to the objecting party's presentation on the merits. It additionally states that when issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. Proposed § 10.53(b) further provides that the presiding ALJ may, upon reasonable notice and upon such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleadings and which are relevant to any

of the issues involved. It also authorizes the ALJ to grant a continuance in the hearing, or leave the record open, to enable the new allegations to be addressed.

Proposed § 10.54, which is derived from 29 CFR 6.18 and 6.32, provides a process whereby parties may at any time prior to the ALJ's receipt of evidence or, at the ALJ's discretion, at any time prior to issuance of a decision, amicably dispose of the matter, or any part thereof, by entering into consent findings and an order. Proposed § 10.54(b) identifies four requirements of any agreement containing consent findings and an order. Proposed § 10.54(c) provides that within 30 calendar days of receipt of any proposed consent findings and order, the ALJ shall accept the agreement by issuing a decision based on the agreed findings and order, provided the ALJ is satisfied with the proposed agreement's form and substance.

Proposed § 10.55, which is primarily derived from 29 CFR 6.19 and 6.33, addresses the ALJ's proceedings and decision. Proposed § 10.55(a) provides that the Office of Administrative Law Judges has jurisdiction to hear and decide appeals concerning questions of law and fact from the Administrator's determinations issued under § 10.51 or § 10.52. It further provides that any party may, when requesting an appeal or during the pendency of a proceeding on appeal, timely move an ALJ to consolidate a proceeding initiated hereunder with a proceeding initiated under the SCA or DBA. This language would allow the Office of Administrative Law Judges and interested parties to efficiently dispose of related proceedings arising out of the same contract with the Federal Government. Proposed § 10.55(b) provides that each party may file with the ALJ proposed findings of fact, conclusions of law, and a proposed order, together with a brief, within 20 calendar days of filing of the transcript (or a longer period if the ALJ permits). It also provides that each party shall serve such proposals and brief on all other parties.

Proposed § 10.55(c)(1) requires an ALJ to issue a decision within a reasonable period of time after receipt of the proposed findings of fact, conclusions of law, and order, or within 30 calendar days after receipt of an agreement containing consent findings and an order disposing of the matter in whole. It further provides that the decision shall contain appropriate findings, conclusions of law, and an order and be served upon all parties to the proceeding. Proposed § 10.55(c)(2) provides that if the Administrator has requested debarment, and the ALJ concludes the contractor has violated the Executive Order or this part, the ALJ must issue an order regarding whether the contractor is subject to the ineligible list that includes any findings related to the contractor's disregard of its obligations to workers or subcontractors under the Executive Order or this part.

Proposed § 10.55(d) provides that the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. 504, does not apply to these proceedings. The proceedings proposed here are not required by an underlying statute to be determined on the record after an opportunity for an agency hearing. Therefore, an ALJ would have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the EAJA for any proceeding under this part.

Proposed § 10.55(e) provides that if the ALJ concludes a violation occurred, the final order must require action to correct the violation, including, but not limited to, monetary relief for unpaid wages. It also requires an ALJ to determine whether an order imposing debarment is appropriate, if the Administrator has sought debarment. Proposed § 10.55(f) provides that the ALJ's decision shall become the final order of the Secretary, provided a party does not timely appeal the matter to the ARB.

Proposed § 10.56, which is derived from 29 CFR 6.20 and 6.34, applies to petitions for review to the ARB from ALJ decisions. Proposed § 10.56(a) provides that within 30 calendar days after the date of the decision of the ALJ, or such additional time as the ARB grants, any party aggrieved thereby who desires review shall file a petition for review with supporting reasons in writing to the ARB with a copy thereof to the Chief Administrative Law Judge. It further requires the petition to refer to the specific findings of fact, conclusions of law, and order at issue and that a petition concerning a debarment decision state the disregard of obligations to workers and subcontractors, or lack thereof, as appropriate. It additionally requires a party to serve the petition for review, and all briefs, on all parties and on the Chief Administrative Law Judge. It also states a party must timely serve copies of the petition and all briefs on the Administrator and the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor.

Proposed § 10.56(b) provides that if a party files a timely petition for review, the ALJ's decision shall be inoperative unless and until the ARB issues an order affirming the letter or decision, or the letter or decision otherwise becomes a final order of the Secretary. It further provides that if a petition for review concerns only the imposition of debarment, the remainder of the decision shall be effective immediately. It additionally states that judicial review shall not be available unless a timely petition for review to the ARB is first filed. Failure of the aggrieved party to file a petition for review with the ARB within 30 calendar days of the ALJ decision shall render the decision final, without further opportunity for appeal.

Proposed § 10.57, which is derived primarily from 29 CFR 9.35, outlines the ARB proceedings under the Executive Order. Proposed § 10.57(a)(1) states the ARB has jurisdiction to hear and decide in its discretion appeals from the Administrator's investigative findings letters issued under § 10.51(c)(1) or § 10.51(c)(2), Administrator's rulings issued under § 10.58, and from decisions of ALJ's issued under § 10.55. It further provides that in considering the matters within its jurisdiction, the Board shall act as the Secretary's authorized representative and act fully and finally on behalf of the Secretary. Proposed § 10.57(a)(2) identifies the limitations on the ARB's scope of review, including a restriction on passing on the validity of any provision of this part, a general prohibition on receiving new evidence in the record (because the ARB is an appellate body and shall decide cases before it based on substantial evidence in the existing record), and a bar on granting attorney's fees or other litigation expenses under the Equal Access to Justice Act.

Proposed § 10.57(b) requires the ARB to issue a final decision within a reasonable period of time following receipt of the petition for review and to serve the decision by mail on all parties at their last known address, and on the Chief Administrative Law Judge, if the case involves an appeal from an ALJ's decision. Proposed § 10.57(c) requires the ARB's order to mandate action to remedy the violation, including, but not limited to, providing monetary relief for unpaid wages, if the Board concludes a violation occurred. If the Administrator has sought debarment, the Board must determine whether a debarment remedy is appropriate. Proposed § 10.57(d) provides the ARB's decision shall become the Secretary's final order in the matter.

Proposed § 10.58 sets forth a procedure for addressing questions regarding the application and interpretation of the rules contained in this part. Proposed § 10.58(a), which is

derived primarily from 29 CFR 5.13, provides that such questions may be referred to the Administrator. It further provides that the Administrator shall issue an appropriate ruling or interpretation related to the question. Requests for rulings under this section should be addressed to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Any interested party may, pursuant to § 10.58(b), appeal a final ruling of the Administrator issued pursuant to § 10.58(a) to the ARB.

Appendix A (Contract Clause)

Section 2 of Executive Order 13658 provides that executive departments and agencies (agencies), shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, the minimum wage to be paid to workers under the Order. 79 FR 9851. Section 4 of the Executive Order provides that the Secretary shall issue regulations by October 1, 2014, to the extent permitted by law and consistent with the requirements of the Federal Property and Administrative Services Act, to implement the requirements of the Order. *Id.* at 9852. Section 4 of the Order also requires that, to the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council (FARC) shall issue regulations in the Federal Acquisition Regulation (FAR) to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to the Executive Order. *Id.* The Order further specifies that any regulations issued pursuant to section 4 of the Order should, to the extent practicable and consistent with section 8 of the Order, incorporate existing definitions, procedures, remedies, and enforcement processes under the FLSA, SCA, and DBA. *Id.* Section 5 of the Order grants authority to the Secretary to investigate potential violations of and obtain compliance with the Order. *Id.*

As a contract clause is a requirement of the Order, the text of a proposed contract clause is set forth in appendix A to proposed part 10. As required by the Order, the proposed contract clause specifies the minimum wage to be paid to workers under the Order. Consistent with the Secretary's authority under the Order to obtain compliance with the Order, as well as the Secretary's responsibility under the Order to issue regulations implementing the requirements of the Order that incorporate, to the extent practicable, existing procedures, remedies, and enforcement processes under the FLSA, SCA, and DBA, the additional provisions of the contract clause are based on the statutory text or implementing regulations of the FLSA, SCA, and DBA and are intended to obtain compliance with the Order.

For all contracts subject to Executive Order 13658, except for procurement contracts subject to the Federal Acquisition Regulation (FAR), the contracting agency shall include the Executive Order minimum wage contract clause set forth in appendix A of this part in all covered contracts and solicitations for such contracts, as described in § 10.3. The required contract clause directs, as a condition of payment, that all workers performing on covered contracts must be paid the applicable, currently effective minimum wage under Executive Order 13658 and § 10.5. For procurement contracts subject to the FAR, contracting agencies shall use the clause set forth in the FAR developed to implement this rule. Such clause shall accomplish the same purposes as the clause set forth in appendix A and shall be consistent with the requirements set forth in this rule.

Paragraph (a) of the proposed contract clause set forth in appendix A provides that the contract in which the clause is included is subject to Executive Order 13658, the regulations issued by the Secretary of Labor at 29 CFR part 10 to implement the Order's requirements, and all the provisions of the contract clause.

Paragraph (b) specifies the contractor's minimum wage obligations to workers pursuant to the Executive Order. Paragraph (b)(1) stipulates that each worker employed in the performance of the contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and the worker, shall be paid not less than the Executive Order's applicable minimum wage. Paragraph (b)(2) provides that the minimum wage required to be paid to each worker performing work on the contract between January 1, 2015 and December 31, 2015 shall be $10.10 per hour. It specifies that the applicable minimum wage required to be paid to each worker performing work on the contract shall thereafter be adjusted each time the Secretary's annual determination of the applicable minimum wage under section 2(a)(ii) of the Executive Order results in a higher minimum wage. Section (b)(1) further provides that adjustments to the Executive Order minimum wage will be effective January 1st of the following year, and shall be published in the **Federal Register** no later than 90 days before such wage is to take effect. It also provides the applicable minimum wage will be published on *www.wdol.gov* (or any successor Web site) and is incorporated by reference into the contract.

The effect of paragraphs (b)(1) and (b)(2) would be to require the contractor to adjust the minimum wage of workers employed on a contract subject to the Executive Order each time the Secretary's annual determination of the minimum wage results in a higher minimum wage than the previous year. For example, paragraph (b)(1) would require a contractor on a contract subject to the Executive Order in 2015 to pay covered workers at least $10.10 per hour for work performed on the contract. If the contractor continued to employ workers on the covered contract in 2016 and the Secretary determined the applicable minimum wage to be effective January 1, 2016 was $10.20 per hour, sections (b)(1) and (b)(2) would require the contractor to pay covered workers $10.20 for work performed on the contract beginning January 1, 2016, thereby raising the wages of any workers paid $10.10 per hour prior to January 1, 2016.

Paragraph (b)(3), which is derived from the contract clauses applicable to contracts subject to the SCA and the DBA, *see* 29 CFR 4.6(h) (SCA); 29 CFR 5.5(a)(1) (DBA), is intended to ensure full payment of the applicable Executive Order minimum wage to covered workers. Specifically, paragraph (b)(3) requires the contractor to pay unconditionally to each covered worker all wages due free and clear and without deduction (except as otherwise provided by § 10.23), rebate or kickback on any account. Paragraph (b)(3) further provides that wages shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. Paragraph (b)(3) also provides that a pay period under the Executive Order may not be of any duration longer than semi-monthly (a duration permitted under the SCA, *see* 29 CFR 4.165(b)). Paragraph (b)(4) provides that the contractor and any subcontractor(s) responsible shall therefore be liable for unpaid wages in the event of any violation of the minimum wage obligation of these clauses.

Paragraphs (c) and (d) of the contract clause are derived primarily from the contract clauses applicable to contracts subject to the SCA and the DBA, *see* 29 CFR 4.6(i) (SCA); 29 CFR 5.5(a)(2), (7)

(DBA), and specify remedies in the event of a determination of a violation of Executive Order 13658 or this part. Paragraph (c) provides that the contracting officer shall, upon its own action or upon written request of an authorized representative of the Department, withhold or cause to be withheld from the prime contractor under the contract or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by the contract. Consistent with withholding procedures under the SCA and the DBA, section (c) would allow the contracting agency and the Department to effect withholding of funds from the prime contractor on not only the contract covered by the Executive Order but also on any other contract that the prime contractor has entered into with the Federal Government.

Paragraph (d) states the circumstances under which the contracting agency and/or the Department may suspend, terminate, or debar a contractor for violations of the Executive Order. It provides that in the event of a failure to comply with any term or condition of the Executive Order or 29 CFR part 10, including failure to pay any worker all or part of the wages due under the Executive Order, or discriminating against an employee who has filed a complaint, the contracting agency may on its own action, or after authorization or by direction of the Department and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Paragraph (d) additionally provides that any failure to comply with the contract clause may constitute grounds for termination of the right to proceed with the contract work and, in such event, for the Federal Government to enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. Paragraph (d) also provides that a breach of the contract clauses may be grounds to debar the contractor as provided in 29 CFR part 10.

Paragraph (e) provides that neither a contractor nor subcontractor may discharge any portion of its minimum wage obligation under the contract by furnishing fringe benefits, or with respect to workers whose wages are governed by the SCA, the cash equivalent thereof. As noted earlier, Executive Order 13658 establishes a minimum wage for contractors and provides that the Order seeks to increase, initially to $10.10, ''the hourly minimum wage'' paid by contractors with the Federal Government. By repeatedly referencing that it is establishing a higher hourly minimum wage, without any reference to fringe benefits, the text of the Executive Order makes clear that a contractor cannot discharge its minimum wage obligation by furnishing fringe benefits. This interpretation is consistent with the SCA, which does not permit a contractor to meet its minimum wage obligation through the furnishing of fringe benefits, but rather imposes distinct ''minimum wage'' and ''fringe benefit'' obligations on contractors. 41 U.S.C. 6703(1)–(2). Similarly, the FLSA does not allow a contractor to meet its minimum wage obligation through the furnishing of fringe benefits. Although the DBA specifically includes fringe benefits within its definition of minimum wage, thereby allowing a contractor to meet its minimum wage obligation, in part, through the furnishing of fringe benefits, 40 U.S.C. 3141(2), Executive Order 13658 contains no similar provision expressly authorizing a contractor to discharge its Executive Order minimum wage obligation through the furnishing of fringe benefits. Consistent with the Executive Order, paragraph (e) would accordingly preclude a contractor from discharging its minimum wage obligation by furnishing fringe benefits.

Paragraph (e) also prohibits a contractor from discharging its minimum wage obligation to workers whose wages are governed by the SCA by providing the cash equivalent of fringe benefits, including vacation and holidays. As discussed above, the SCA imposes distinct ''minimum wage'' and ''fringe benefit'' obligations on contractors. 41 U.S.C. 6703(1)–(2). A contractor cannot satisfy any portion of its SCA minimum wage obligation through the provision of fringe benefit payments or cash equivalents furnished or paid pursuant to 41 U.S.C. 6703(2). 29 CFR 4.177(a). Consistent with the treatment of fringe benefit payments or their cash equivalents under the SCA, paragraph (e) would not allow contractors to discharge any portion of their minimum wage obligation under the Executive Order to workers whose wages are governed by the SCA through the provision of either fringe benefits or their cash equivalent.

Paragraph (f) provides that nothing in the contract clause shall relieve the contractor from compliance with a higher wage obligation to workers under any other Federal, State, or local law. This provision would implement section 2(c) of the Executive Order, which provides that nothing in the Order excuses noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Order. 79 FR 9851. This provision thus would ensure that a contractor cannot rely on the applicable Executive Order minimum wage to justify payment of a wage that is lower than the wage the contractor is obligated to pay under any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Order. For example, if a municipal law required a contractor to pay a worker $10.75 per hour on January 1, 2015, a contractor could not rely on the $10.10 Executive Order minimum wage to pay the worker less than $10.75 per hour.

Paragraph (g) sets forth recordkeeping and related obligations that are consistent with the Secretary's authority under section 5 of the Order to obtain compliance with the Order, and that the Department views as essential to determining whether the contractor has paid the Executive Order minimum wage to covered workers. The obligations set forth in paragraph (g) are derived from the FLSA, SCA, or DBA. Paragraph (g)(1) lists specific payroll records obligations of contractors and subcontractors performing work subject to the Executive Order, providing in particular that such contractors and subcontractors shall make and maintain for three years from the completion of the covered contract work records containing the following information for each covered worker: name, address, and social security number; the rate or rates paid to the worker; the number of daily and weekly hours worked by each worker; and any deductions made. The records required to be kept by contractors pursuant to this part are coextensive with recordkeeping requirements that already exist under, and are consistent across, the FLSA, SCA, and DBA; as a result, compliance by a covered contractor with these payroll records obligations will not impose any obligations to which the contractor is not already subject under the FLSA, SCA, or DBA. Paragraph (g)(1) further provides that the contractor and each subcontractor performing work subject to the Executive Order shall make such records available for inspection and transcription by authorized representatives of the WHD.

Paragraph (g)(2) requires the contractor to make available a copy of

the contract for inspection or transcription by authorized representatives of the WHD. Paragraph (g)(3) provides that failure to make and maintain, or to make available to the WHD for transcription and copying, the records identified in section (g)(1) is a violation of the regulations implementing Executive Order 13658 and the contract. Paragraph (g)(3) additionally provides that in the case of a failure to produce such records, the contracting officer, upon direction of the Department and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases. Paragraph (g)(4) requires the contractor to permit authorized representatives of the WHD to conduct the investigation, including interviewing workers at the worksite during normal working hours. Paragraph (g)(5) provides that nothing in the contract clauses limits or otherwise modifies a contractor's recordkeeping obligations, if any, under the FLSA, SCA, and DBA, and their implementing regulations, respectively. Thus, for example, a contractor subject to both Executive Order 13658 and the DBA with respect to a particular project is required to comply with all recordkeeping requirements under the DBA and its implementing regulations.

Paragraph (h) requires the contractor to both insert the contract clause in all its subcontracts and to require its subcontractors to include the clause in any lower–tiered subcontracts. Paragraph (h) further makes the prime contractor or upper-tier contractor responsible for the compliance by any subcontractor or lower tier subcontractor with the contract clause.

Paragraph (i), which is derived from the SCA contract clause, 29 CFR 4.6(n), sets forth the certifications of eligibility the contractor makes by entering into the contract. Paragraph (i)(1) stipulates that by entering into the contract, the contractor and its officials certify that neither the contractor, the certifying officials, nor any person or firm with an interest in the contractor's firm is a person or firm ineligible to be awarded Federal contracts pursuant to section 5 of the SCA, section 3(a) of the DBA, or 29 CFR 5.12(a)(1). Paragraph (i)(2) constitutes a certification that no part of the contract shall be subcontracted to any person or firm ineligible to receive Federal contracts. Paragraph (i)(3) contains an acknowledgement by the contractor that the penalty for making false statements is prescribed in the U.S. Criminal Code at 18 U.S.C. 1001.

Paragraph (j) is based on section 3 of the Executive Order and addresses the employer's ability to use a partial wage credit based on tips received by a tipped employee (tip credit) to satisfy the wage payment obligation under the Executive Order. The provision sets the requirements an employer must meet in order to claim a tip credit.

Paragraph (k) establishes a prohibition on contractor retaliation that is derived from the FLSA's antiretaliation provision and is consistent with the Secretary's authority under section 5 of the Order to obtain compliance with the Order. It prohibits a contractor from discharging or discriminating against a worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or has testified or is about to testify in any such proceeding. The Department proposes to interpret the prohibition on contractor retaliation in paragraph (k) in accordance with its interpretation of the analogous FLSA provision.

Paragraph (l) is based on section 5(b) of the Executive Order and provides that disputes related to the application of the Executive Order to the contract shall not be subject to the contract's general disputes clause. Instead, such disputes shall be resolved in accordance with the dispute resolution process set forth in 29 CFR part 10. Paragraph (l) also provides that disputes within the meaning of the clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

IV. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8. Persons are not required to respond to the information collection requirements until they are approved by OMB under the PRA at the final rule stage.

Purpose and use: As previously explained, Executive Order 13658 provides that agencies must, to the extent permitted by law, ensure that new contracts, as described in section 7 of the Order, include a clause specifying, as a condition of payment, that the minimum wage to be paid to workers in the performance of the contract shall be at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) an amount determined by the Secretary, beginning January 1, 2016, and annually thereafter. 79 FR 9851. Section 7(d) of the Executive Order establishes that this minimum wage requirement only applies to a new contract if: (i) (A) It is a procurement contract for services or construction; (B) it is a contract for services covered by the SCA; (C) it is a contract for concessions, including any concessions contract excluded by the Department's regulations at 29 CFR 4.133(b); or (D) it is a contract entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (ii) the wages of workers under such contract are governed by the FLSA, the SCA, or the DBA. 79 FR 9853. Section 7(e) of the Order states that, for contracts covered by the SCA or the DBA, the Order applies only to contracts at the thresholds specified in those statutes. *Id.* It also specifies that, for procurement contracts where workers' wages are governed by the FLSA, the Order applies only to contracts that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to the Order pursuant to regulations or actions taken under section 4 of the Order. 79 FR 9853. This NPRM, which implements the minimum wage requirement of Executive Order 13658, contains several provisions that could be considered to entail collections of information: the section 10.21 requirement for a contractor and its subcontractors to include the applicable Executive Order minimum wage contract clause in any covered subcontract, the section 10.26 recordkeeping requirements, the section 10.41 complaint process, and the subpart E administrative proceedings.

Proposed subpart C states the contractor's requirements in complying with the Executive Order. Proposed § 10.21 states that the contractor and any subcontractor, as a condition of payment, must abide by the Executive Order minimum wage contract clause and must include in any covered subcontracts the minimum wage

contract clause in any lower-tier subcontracts.

The Department notes that the proposed rule does not require contractors to comply with an employee notice requirement. Furthermore, disclosure of information originally supplied by the Federal Government for the purpose of disclosure is not included within the definition of a collection of information subject to the PRA. *See* 5 CFR 1320.3(c)(2). The Department has determined that § 10.21 does not include an information collection subject to the PRA. The Department also notes that the proposed recordkeeping requirements in this NPRM are requirements that contractors must already comply with under the FLSA, SCA, or DBA under an OMB approved collection of information (OMB control number 1235–0018). The Department believes that the proposed rule does not impose any additional notice or recordkeeping requirements on contractors for PRA purposes; therefore, the burden for complying with the recordkeeping requirements in this proposed rule is subsumed under the current approval. An information collection request (ICR), however, has been submitted to the OMB that would revise the existing PRA authorization for control number 1235–0018 to incorporate the recordkeeping regulatory citations in this proposed rule.

The WHD obtains PRA clearance under control number 1235–0021 for an information collection covering complaints alleging violations of various labor standards that the agency administers and enforces. An ICR has been submitted to revise the approval to incorporate the regulatory citations in this proposed rule applicable to complaints and adjust burden estimates to reflect any increase in the number of complaints filed against contractors who fail to comply with the minimum wage requirement.

Subpart E establishes administrative proceedings to resolve investigation findings. Particularly with respect to hearings, the rule imposes information collection requirements. The Department notes that information exchanged between the target of a civil or an administrative action and the agency in order to resolve the action would be exempt from PRA requirements. *See* 44 U.S.C. 3518(c)(1)(B); 5 CFR 1320.4(a)(2). This exemption applies throughout the civil or administrative action (such as an investigation and any related administrative hearings); therefore, the Department has determined the administrative requirements contained in subpart E of this proposed rule are exempt from needing OMB approval under the PRA.

Information and technology: There is no particular order or form of records prescribed by the proposed regulations. A contractor may meet the requirements of this proposed rule using paper or electronic means. The WHD, in order to reduce burden caused by the filing of complaints that are not actionable by the agency, uses a complaint filing process that has complainants discuss their concerns with WHD professional staff. This process allows agency staff to refer complainants raising concerns that are not actionable under wage and hour laws and regulations to an agency that may be able to offer assistance.

Public comments: The Department seeks comments on its analysis that this NPRM creates a slight increase in paperwork burden associated with ICR 1235–0021 but does not create a paperwork burden on the regulated community of the information collection provisions contained in ICR 1235–0018. Commenters may send their views to the Department in the same way as all other comments (*e.g.,* through the *www.regulations.gov* Web site). While much of the information provided to OMB in support of the information collection request appears in the preamble, interested parties may obtain a copy of the full recordkeeping and complaint process supporting statements by sending a written request to the mail address shown in the **ADDRESSES** section at the beginning of this preamble. Alternatively, a copy of the recordkeeping ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201405-1235-002* (this link will only become active on the day following publication of this notice). Similarly, the complaint process ICR is available from *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201405-1235-001* (this link will only become active on the day following publication of this notice) or by visiting *http://www.reginfo.gov/public/do/PRAMain* Web site. In addition to having an opportunity to file comments with the Department, comments about the paperwork implications of the proposed regulations may be addressed to the OMB. Comments to the OMB should be directed to: Office of Information and Regulatory Affairs, Attention OMB Desk Officer for the Wage and Hour Division, Office of Management and Budget, Room 10235, Washington, DC 20503; Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers). The OMB will consider all written comments that agency receives within 30 days of publication of this proposed rule. As previously indicated, written comments directed to the Department may be submitted within 30 days of publication of this notice.

The OMB and the Department are particularly interested in comments that:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Total burden for the recordkeeping and complaint process information collections, including the burdens that will be unaffected by this proposed rule and any changes are summarized as follows:

Type of review: Revisions to currently approved information collections.

Agency: Wage and Hour Division, Department of Labor.

Title: Employment Information Form.

OMB Control Number: 1235–0021.

Affected public: Private sector, businesses or other for-profits and Individuals or Households.

Estimated number of respondents: 35,350 (35 from this rulemaking).

Estimated number of responses: 35,350 (35 from this rulemaking).

Frequency of response: On occasion.

Estimated annual burden hours: 11,679 (11.66 burden hours due to this NPRM).

Estimated annual burden costs: $278,193.00 ($278 from this rulemaking).

Title: Records to be kept by Employers.

OMB Control Number: 1235–0018.

Affected public: Private sector, businesses or other for-profits and Individuals or Households.

Estimated number of respondents: 3,486,025 (0 from this rulemaking).

Estimated number of responses: 39,462,547 (0 from this rulemaking).

Frequency of response: Weekly.

Estimated annual burden hours: 853,924 (0 from this rulemaking).

Estimated annual burden costs: 0.

V. Executive Orders 12866 and 13563

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, select those approaches that maximize net benefits. Executive Order 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Under Executive Order 12866, the Department must determine whether a regulatory action is significant and therefore subject to the requirements of the Executive Order and to review by OMB. 58 FR 51735. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. *Id.*

The Department has determined that this proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866 because it is economically significant based on the analysis set forth below. As a result, OMB has reviewed this proposed rule.

Executive Order 13658 requires an increase in the minimum wage to $10.10 for workers on covered Federal contracts where the solicitation for such contract has been issued on or after January 1, 2015. Beginning January 1, 2016, and annually thereafter, the Secretary of Labor will determine the applicable minimum wage in accordance with section 2 of Executive Order 13658. Workers performing on covered contracts as described in the Executive Order and this rule are entitled to the minimum wage protections of this part. The Executive Order applies only to new contracts where the solicitation for such contract has been issued on or after January 1, 2015.

In order to determine whether the proposed rule would have an annual effect on the economy of $100 million or more, it was necessary to determine how many workers on contracts covered by the Executive Order are earning below $10.10 (affected workers). Because no single source contained data reflecting how many Federal contract workers receive wages below $10.10, the Department relied on a variety of data sources to derive the number of affected workers. First, the Department used the Principal North American Industry Classification System (NAICS) to identify the industries most likely to employ workers covered by the Executive Order. Second, the Department utilized the Current Population Survey (CPS) to estimate the number of workers within a state within the applicable NAICS category receiving less than $10.10 per hour. The Department then relied on ratios it derived from *USASpending.gov* and the Bureau of Labor Statistics Office of Employment and Unemployment Statistics (OEUS) data to determine what percentage of the applicable CPS workers receiving less than $10.10 per hour were working on Federal contracts. Finally, the Department relied on ratios again derived from *USAspending.gov* data to determine what percentage of workers receiving less than $10.10 per hour while working on Federal contracts were employed on Federal contracts covered by the Executive Order. Using this methodology, the Department estimates that there are 183,814 affected workers.

It was additionally necessary to determine the average wage rate of affected workers and to estimate how many hours affected workers would spend on covered contracts. The Department estimated affected workers receive an average wage of $8.79, or $1.31 below the Executive Order minimum wage, and work 2,080 hours per year on Executive Order covered contracts. The Department further estimated that twenty-percent (20%) of contracts extant in 2015 will qualify as ''new'' for purposes of the Executive Order and that approximately all contracts extant by 2019 will be ''new'' for purposes of the Executive Order. Based on these estimates, the Department anticipates that the annual effect of the rule in 2015 and 2019 will be approximately $100.2 million (183,814*$1.31*2080*.20= $100.2 million) and $501 million (183,814*$1.31*2080), respectively.

In estimating the annual effect on the economy of this rule, the Department proceeded in steps. The first step was to estimate the number of affected workers who currently earn less than $10.10 per hour. The second step was to estimate the average wage increase for the affected workers. The average increase in wages will reflect the range of hourly wage rates of the affected workers currently earning between $7.25 and $10.10. In the third step, the Department calculated the total increase in hourly wages for the affected workers by multiplying the number of affected workers (Step 1) by the average increase in wages of the affected workers (Step 2) and the estimated number of work hours per year. Because this rule applies only to new contracts where the solicitation for such contracts has been issued on or after January 1, 2015, the Department also needed to estimate the percentage of extant contracts that would be ''new'' in the years covered by this analysis.

The Federal Government does not collect data that precisely quantifies the number of private sector workers employed under Federal contracts. The Department accordingly used various methods based on the data sources available to derive an estimate of the number of affected workers. First, the Department gathered data on Federal contracts from *USASpending.gov*, which classifies government contract spending based on the products or services being purchased, to determine the types of Federal contracts covered by the Executive Order.[5] Specifically, the Department's estimate of spending on contracts that are covered by this Executive Order included contracts for work related to Research and Development (''A'' codes), Special Studies and Analyses—Not R&D (''B'' codes), Architect and Engineering—Construction (''C'' codes), Automatic Data Processing and Telecommunication (''D'' codes), Purchase of Structures and Facilities (''E'' codes), Natural Resources and Conservation (''F'' codes), Social Services (''G'' codes), Quality Control, Testing, and Inspection (''H'' codes), Maintenance, Repair, and Rebuilding of

[5] The Department excluded all contracts for products from its estimate because the Executive Order generally does not cover such contracts.

Equipment (''J'' codes), Modification of Equipment (''K'' codes), Technical Representative (''L'' codes), Operation of Government Owned Facilities (''M'' codes), Installation of Equipment (''N'' codes), Salvage Services (''P'' codes), Medical Services (''Q'' codes), Professional, Administrative and Management Support (''R'' codes), Utilities and Housekeeping Services (''S'' codes), Photographic, Mapping, Printing, and Publications (''T'' codes), Education and Training (''U'' codes), Transportation, Travel and Relocation (''V'' codes), Lease or Rental of Equipment (''W'' codes), Lease or Rental of Facilities (''X'' codes), Construction of Structures and Facilities (''Y'' codes), and Maintenance, Repair or Alteration of Real Property (''Z'' codes).

The Department focused on information found in the *USASpending.gov* Prime Award Spending database, which enabled it to discern how some Federal contracts are further redistributed to subcontractors. For example, a business performing a Professional, Administrative and Management Support contract may subcontract with other businesses to complete their work. *USASpending.gov* is not a perfect data source from which to estimate all the Federal contracts subject to the Executive Order because a portion of contracts in several of the product service codes may not be covered by this proposed rule. In addition, *USASpending.gov* does not capture some concessions contracts and contracts in connection with Federal property or lands related to offering services for Federal employees, their dependents or the general public that will be covered by this proposed rule. Therefore, the Department's estimates of the number of affected workers may be somewhat imprecise. However, the inclusion of all contracts in the aforementioned product service codes and the exclusion of some concessions contracts and covered contracts in connection with Federal property or lands likely offset each other to at least some degree in calculating the total number of affected workers under this proposed rule.

Second, the Department utilized 2012 [6] OEUS data on total output and employment by industry in conjunction with the data on total spending on Federal contracts by industry from *USASpending.gov* to calculate the share of workers in each industry sector employed under Federal contracts. According to *USASpending.gov*, the Federal Government spent $461.48 billion on procurement contracts in 2013. Subtracting amounts spent on contract work performed outside of the United States that the Executive Order does not cover resulted in Federal Government spending on procurement contracts of approximately $407.68 billion in 2013. The Department illustrates its approach using the example of the information industry; OEUS data indicated that total output and total employment for the information industry (NAICS code: 51) in 2012 were $1.25 trillion and 2.74 million workers, respectively. Total Federal contract spending for the information industry according to *USASpending.gov* was $10.4 billion in 2013. The Department then divided the total Federal contract spending for the information industry by the total output for the information industry to derive a *share of industry output* in the information sector of .83 percent ($10.4 billion/$1.25 trillion). Using this method, the Department estimated the share for each industry sector from *USASpending.gov* that it identified as containing Federal contracts subject to the Executive Order (*see* Table A below).

The Department augmented the national contracting data with information on state-based geographic differences in the minimum wage and contracting services purchased. By integrating state-level data, the Department captured some of the variation in the minimum wage level and contracting within states. The Department determined where Federal agencies were investing by the place of performance data associated with each entry in the *USASpending.gov* database, which is typically the zip code of the location where the contract work takes place. In order to avoid overstating the contracts covered by this proposed rule, the Department developed an estimate to measure the proportion of total Federal spending on services and products in a given state. To measure *the ratio of covered contracts,* the Department divided a state-industry pair's total Federal spending on contracts covered by Executive Order 13658 by the state-industry pair's total Federal spending on all contracts (including both services and products) in 2013. The Department defined the industries in the state-industry pairs using the principal NAICS of the contractor providing the service (*see* Table B). For simplicity, the Department chose to aggregate the data by two-digit NAICS industries. Affected workers are estimated based on contracts by industry two-digit NAICS level. It should be noted that the Department's estimate includes all industry classification of contracts. The approach captures all vendors irrespective of industry whose contracts are covered by this proposed rule.

Third, the Department used wage and industry data from the CPS [7] to calculate the total number of workers in each state by two-digit NAICS level who earn less than $10.10 per hour.[8] The Department then applied the *share of industry output* ratios to this CPS data to estimate the total number of workers within an industry within a state who earn less than $10.10 per hour working on a Federal contract. Implicit in the Department's use of the *USASpending.gov* and CPS data in this manner is the Department's assumption that the industry distribution of Federal contractors is the same as that in the rest of the U.S. economy. For example, according to CPS data, there are 5,991 workers in the information industry in Maryland who earn less than $10.10 per hour, so applying the *share of industry output* ratio estimate of 0.83 percent indicates that there are 50 workers in the information industry who earn less than $10.10 and are employed under a Federal contract in Maryland. The Department then accounted for those workers who are performing on a covered contract by employing the applicable *ratio of covered contracts.* For example, the *ratio of covered contracts* in the information industry in Maryland is 67 percent. The Department accordingly calculated that the number of affected workers in the information industry in Maryland who earn less than $10.10 per hour is 33 (67% × 50). By following this procedure for each state-industry pair, the Department estimated that out of the 868,834 workers on Federal contract jobs, 183,814 (21 percent) were paid $10.10 per hour or less. *See* Table C for calculation of the number of affected workers.

[6] The total spending data on Federal contracts by industry in 2012 was similar to the total spending data on Federal contracts by industry in 2013. The Department accordingly concluded it was appropriate to compare the total spending data on Federal contracts from *USASpending.gov* in 2013 to the 2012 data on total output and employment from the OEUS.

[7] The CPS, sponsored jointly by the U.S. Census Bureau and the BLS, is the primary source of labor force statistics for the population of the United States. The CPS is the source of numerous high-profile economic statistics, including the national unemployment rate, and provides data on a wide range of issues relating to employment and earnings.

[8] While the ideal data set for the number of affected workers would be Federal procurement data that shows a wage distribution for all contract and subcontract workers, such a data set is not available.

This regulation affects only new contracts with the Federal Government; it does not affect existing contracts. The Department has found no precise data with which to measure the number of construction and service contracts that are new each year. According to a 2012 Small Business Administration (SBA) study, between FY 2005 and FY 2009, an average of 17.6 percent of all Federal contracts with small businesses were awarded to small businesses that were new to Federal contracting (and thus must have been new contracts) based on data from the Federal Procurement Data System (FPDS).[9] In the economic analysis of the final rule of ''Nondisplacement of Qualified Workers under Service Contracts,'' the Department assumed that slightly more than 20 percent of all SCA covered contracts would be successor contracts subject to the nondisplacement provisions.[10] After considering these factors, and recognizing in particular that some contracts covered by the Executive Order (including those exempted from SCA coverage under 29 CFR 4.133(b)) are for terms of more than five years, the Department conservatively assumed for purposes of this analysis that roughly 20 percent of Federal contracts are initiated each year; therefore, it will take at least five years for the proposed rule's impact to fully manifest itself.

Transfers From Federal Contractor Employers and Taxpayers to Workers

The most accurate way to measure the pay increase that affected workers can expect to receive as a result of the minimum wage increase would be to calculate the difference between $10.10 and the average wage rate currently paid to the affected workers. However, the Department was unable to find data reflecting the distribution of the wages currently paid to the affected workers who earn less than $10.10 per hour. Thus, it is not possible to directly calculate the average wage rate the affected workers are currently paid.

Given this data limitation, the Department used earnings data from the CPS to calculate the average wage rate for U.S. workers who earn less than $10.10 per hour in the construction and service industries. Assuming that the wage distribution of Federal contract workers in the construction and service industries is the same as that in the rest of the U.S. economy, the Department estimated that the average wage for the affected workers associated with this proposed rule is $8.79 per hour. Thus, the difference between the average wage rate of $8.79 per hour and $10.10 would yield a $1.31 per hour pay increase for the affected workers.

The Department then applied this increase to the Federal contract workers who will be potentially affected by the change. The Department also needed to account for the fact that this rule applies only to new contracts. As noted, the Department estimated that about 20 percent of covered contracts are new each year. To estimate the total wage increase per year, the Department needed to calculate the total work hours in a year. The Department assumed a forty hour workweek, and by multiplying 40 hours per week by 52 weeks in a year, concluded that affected workers work 2,080 hours in a year.

The Department calculated the total increase that Federal contractors will pay their employees by multiplying the number of affected workers by the average wage increase of $1.31 per hour and 2,080 work hours per year. Based on the assumption that only 20 percent of contracts in 2015 will be new, the total increase that Federal contractors will pay their employees by the end of 2015 is estimated to be $100.20 million ($183{,}814 \times \$1.31 \times 2{,}080 \times 20\%$).[11] When this rule's impact is fully manifested by the end of 2019, the total increase in hourly wages for Federal contract workers is expected to be $501 million (in 2014 dollars) ($100.20 million $\times$ 5 years).[12] There is however, a possibility that this estimate is overstated because the analysis does not account for what are likely higher average hourly wages paid to employees whose wages are governed by SCA or DBA prevailing wage determinations. Moreover, the analysis does not account for changes in state and local minimum wages that will raise wages independently of this proposed rule.[13]

This is the estimated transfer cost from employers and taxpayers to workers in 2019. However, the Department expects offsetting of the cost increase due to workers' increased productivity, reduced turnover, and other benefits as discussed in the Benefits section. In fact, as discussed below, the Department believes that the long-term cost savings to employers and the Federal Government justify the short-term costs that would be incurred.

Additional Compliance Costs

This rule requires executive departments and agencies to include a contract clause in any contracts covered by the Executive Order. The clause describes the requirement to pay all workers on covered Federal Government contracts at least the Executive Order minimum wage. Covered contractors and their subcontractors will need to incorporate the contract clause into lower-tier subcontracts. The Department believes that the compliance cost of incorporating the contract clause will be negligible for contractors and subcontractors.

The Department has drafted this proposed rule consistent with the directive in section 4(c) of the Executive Order that any regulations issued pursuant to the Order should, to the extent practicable, incorporate existing procedures from the FLSA, SCA and DBA. As a result, most contractors subject to this rule generally will not face any new requirements, other than payment of a wage no less than the minimum wage required by the Order. The proposed rule does not require contractors to make other changes to their business practices. Therefore, the Department posits that the only regulatory familiarization cost related to this proposed rule is the time necessary for contractors to read the contract clause, evaluate and adjust their pay rates to ensure workers on covered contracts receive a rate not less than the Executive Order minimum wage, and modify their contracts to include the required contract clause. For this activity, the Department estimates that contractors will spend one hour. The

[9] Small Business Administration, ''Characteristics of Recent Federal Small Business Contracting,'' May 2012, *http://www.sba.gov/sites/default/files/397tot.pdf.*

[10] Department of Labor, ''Nondisplacement of Qualified Workers under Service Contracts,'' Final Rule, Wage and Hour Division, 2011, *https://www.federalregister.gov/articles/2011/08/29/2011–21261/nondisplacement-of-qualified-workers-under-service-contracts.*

[11] Because the rate is effective for contracts resulting from solicitations on or after January 1, 2015, it is likely that work on covered contracts will not commence until later in 2015. Therefore, our analysis overstates the cost estimate as we used 2,080 hours to reflect the full year for 2015.

[12] Beginning January 1, 2016, the minimum wage will be adjusted annually by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Accordingly, this will adjust upward our estimated wage increase in 2016 and after. However, our estimates of wage increases for the affected workers are measured in 2014 constant dollars and therefore, remain unchanged.

[13] The estimate of rule-induced transfers is based on an assumption that the proposed rule would have no impact on employment. According to the Council of Economic Advisers, the bulk of the empirical literature shows that raising the minimum wage by a moderate amount has little or no negative effect on employment. However, these studies primarily study the impact of minimum wages in the private sector. In the public sector, many of the same factors that affect private companies, like the impact on the productivity of workers, are relevant for considering any impact on employment. However, ultimately employment related to federal contracts will largely depend on the future decisions of policymakers, such as budget and procurement decisions.

estimated cost of this burden is based on data from the Bureau of Labor Statistics in the publication ''Employer Costs for Employee Compensation'' (September 2013), which lists hourly compensation for the Management, Professional, and Related occupational group as $51.74. There are approximately 500,000 contractor firms registered in the General Service Administration (GSA)'s System for Award Management (SAM). Therefore, the estimated hours for rule familiarization is 500,000 hours (500,000 contractor firms × 1 hour = 500,000 hours). The Department calculated the total estimated cost as $25.87 million (500,000 hours × $51.74/hour = $25,870,000).

Benefits

The Department expects that increasing the minimum wage of Federal contract workers would generate several important benefits, including reduced absenteeism and turnover in the workplace, improved employee morale and productivity, reduced supervisory costs, and increased quality of government services.

Research shows that absenteeism is negatively correlated with wages, meaning that better-paid workers are absent less frequently (Dionne and Dostie 2007; Pfeifer 2010).[14] Pfeifer (2010) finds that a one percent increase in wages is associated with a reduction in absenteeism of about one percent. According to a study by Fairris, Runstein, Briones, and Goodheart (2005), managers reported that absenteeism decreased following the passage of a living wage ordinance in Los Angeles because employees had more to lose if they did not show up for work, and employees placed greater value on their jobs because they knew they would receive a lower wage at other jobs.[15] When workers are paid higher wages, they are absent from work less often. According to studies by Allen (1983), Mefford (1986), Zhang, Sun, Woodcock, and Anis (2013), reduced absenteeism has been associated with higher productivity.[16]

A higher minimum wage is also associated with reduced worker turnover (Reich, Hall, and Jacobs 2003; Fairris, Runstein, Briones, and Goodheart 2005; Dube, Lester, and Reich 2013; Brochu and Green 2013).[17] In a study of homecare workers in San Francisco, Howes (2005) found that the turnover rate fell by 57 percent following implementation of a living wage policy. Furthermore, Howes found that a $1.00 per hour raise from an $8.00 hourly wage increased the probability of a new worker remaining with his or her employer for one year by 17 percentage points.[18] In their study of the effects of the living wage in Baltimore, Niedt, Ruiters, Wise, and Schoenberger (1999) found that most workers who received a pay raise expressed an improved attitude toward their job, including greater pride in their work and an intention to stay on the job longer.[19]

Reduced worker turnover is associated with lower costs to employers arising from recruiting and training replacement workers. Because seeking and training new workers is costly, reduced turnover leads to savings for employers. Research indicates that decreased turnover costs partially offset increased labor costs (Reich, Hall, and Jacobs 2003; Fairris, Runstein, Briones, and Goodheart 2005). Holzer (1990) finds that high-wage firms can offset their higher wage costs through improved productivity and lower hiring and turnover costs. More specifically, Holzer finds that firms with higher wages spend fewer hours on informal training, have longer job tenure, more years of previous job experience, higher performance ratings, lower vacancy rates, and greater perceived ease in hiring. Holzer concludes that firms respond to higher wage costs in a variety of ways that offset those costs.[20]

Efficiency wage theory predicts that companies pay higher wages to reduce the need for direct monitoring and related supervisory costs. Workers in higher-wage jobs exhibit greater self-policing in order to protect their higher-wage positions. Empirical studies show that higher wages are associated with less intensive supervision (Groshen and Krueger 1990; Osterman 1994; Rebitzer 1995; Georgiadis 2013).[21] Therefore, increasing the minimum wage of Federal contract workers is expected to lead to a reduction in the costs associated with supervisory expenses. Higher wages can substitute for other costly forms of supervising workers, such as hiring additional managers or including more supervisory duties in senior employees' duties.

Higher wages can also boost employee morale, thereby leading to increased effort and greater productivity. Akerlof (1982, 1984) contends that higher wages increase employee morale, which raises employee productivity.[22] Furthermore, higher productivity can have a positive spillover effect, boosting the productivity of co-workers (Mas and Moretti 2009).[23] This means that raising the minimum wage of Federal contract workers may not only increase the productivity of Federal contract workers, but may also improve the productivity of Federal workers.

[14] Dionne, Georges and Benoit Dostie, ''New Evidence on the Determinants of Absenteeism Using Linked Employer-Employee Data,'' *Industrial and Labor Relations Review,* Vol. 61, No. 1, 2007.

Pfeifer, Christian, ''Impact of Wages and Job Levels on Worker Absenteeism,'' *International Journal of Manpower,* Vol. 31, No. 1, pp 59–72, 2010.

[15] Fairris, David, David Runstein, Carolina Briones, and Jessica Goodheart, ''Examining the Evidence: The Impact of the Los Angeles Living Wage Ordinance on Workers and Businesses,'' LAANE, 2005.

[16] Allen, Steven, ''How Much Does Absenteeism Cost?'' *Journal of Human Resources,* Vol. 18, No. 3, pp 379–393, 1983.

Mefford, Robert, ''The Effects of Unions on Productivity in a Multinational Manufacturing Firm,'' *Industrial and Labor Relations Review,* Vol. 40, No. 1, pp 105–114, 1986.

Zhang, Wei, Huiying Sun, Simon Woodcock, and Aslam Anis, ''Valuing Productivity Loss Due to Absenteeism: Firm-level Evidence from a Canadian Linked Employer-Employee Data,'' Canadian Health Economists' Study Group, The 12th Annual CHESG Meeting, Manitoba, Canada, May 2013.

[17] Reich, Michael, Peter Hall, and Ken Jacobs, ''Living Wages and Economic Performance: The San Francisco Airport Model,'' Institute of Industrial Relations, University of California, Berkeley, March 2003.

Dube, Arindrajit, T. William Lester, and Michael Reich, ''Minimum Wage Shocks, Employment Flows and Labor Market Frictions,'' UC Berkeley Institute for Research on Labor and Employment, Working Paper, July 20, 2013.

Brochu, Pierre and David Green, ''The Impact of Minimum Wages on Labor Market Transitions,'' *The Economic Journal,* Vol. 123, No. 573, pp 1203–1235, December 2013.

[18] Howes, Candace, ''Living Wages and Retention of Homecare Workers in San Francisco,'' *Industrial Relations,* Vol. 44, No. 1, pp 139–163, 2005.

[19] Niedt, Christopher, Greg Ruiters, Dana Wise, and Erica Schoenberger, ''The Effect of the Living Wage in Baltimore,'' Working Paper No. 119, Department of Geography and Environmental Engineering, Johns Hopkins University, 1999.

[20] Holzer, Harry, ''Wages, Employer Costs, and Employee Performance in the Firm,'' *Industrial and Labor Relations Review,* Vol. 43, No. 3, pp 147–164, 1990.

[21] Groshen, Erica L. and Alan B. Krueger, ''The Structure of Supervision and Pay in Hospitals,'' *Industrial and Labor Relations Review,* Vol. 43, No. 3, pp 134–146, 1990.

Osterman, Paul, ''Supervision, Discretion, and Work Organization,'' *The American Economic Review,* Vol. 84, No. 2, pp 380–84, 1994.

Rebitzer, James, ''Is There a Trade-Off Between Supervision and Wages? An Empirical Test of Efficiency Wage Theory,'' *Journal of Economic Behavior and Organization,* Vol. 28, No. 1, pp 107–129, 1995.

Georgiadis, Andreas, ''Efficiency Wages and the Economic Effects of the Minimum Wage: Evidence from a Low-Wage Labour Market,'' *Oxford Bulletin of Economics and Statistics,* Vol. 75, No. 6, pp 962–979, 2013.

[22] Akerlof, George, ''Labor Contracts as Partial Gift Exchange,'' *The Quarterly Journal of Economics,* Vol. 97, No. 4, pp 543–569, 1982.

Akerlof, George, ''Gift Exchange and Efficiency-Wage Theory: Four Views,'' *The American Economic Review,* Vol. 74, No. 2, pp 79–83, 1984.

[23] Mas, Alexandre and Enrico Moretti, ''Peers at Work,'' *American Economic Review,* Vol. 99, No. 1, pp 112–45, 2009.

The Department also expects the quality of government services to improve when the minimum wage of Federal contract workers is raised. In some cases, higher-paying contractors may be able to attract better quality workers who are able to provide better quality services, thereby improving the experience of citizens who engage with these government contractors. For example, a study by Reich, Hall, and Jacobs (2003) found that increased wages paid to workers at the San Francisco airport increased productivity and shortened airport lines. In addition, higher wages can be associated with a higher number of bidders for government contracts, which can be expected to generate greater competition and an improved pool of contractors. Multiple studies have shown that the bidding for municipal contracts remained competitive or even improved when living wage ordinances were implemented (Thompson and Chapman 2006).[24]

The Department expects the increase in the minimum wage for Federal contract workers to result in less absenteeism, reduced labor turnover, lower supervisory costs, and higher productivity. Moreover, higher-paid contract workers who demonstrate higher productivity may also boost the productivity of those around them, including Federal employees. (The Department notes, however, that much of the evidence supporting these predicted outcomes—encapsulated in the papers cited above—examines why firms voluntarily pay high wages. There may be differences between such firms and the contractors that would newly increase wages as a result of this proposed rule. Some may posit that a full accounting of these differences might change predictions of rule-induced impact. Furthermore, the quality of government services may improve as contractors who raise the wage rates paid to their workers incur these benefits and attract better quality workers, thereby improving the experience of citizens who use government services.

Discussion of Regulatory Alternatives

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. As discussed above, this rule has been designated an economically significant regulatory action under section 3(f)(1) of Executive Order 12866.

Executive Order 13658 delegates to the Secretary the authority to issue regulations to ''implement the requirements of this order.'' 79 FR 9852. Because the Executive Order itself establishes the basic coverage provisions and minimum wage requirements that the Department is responsible for implementing, many potential regulatory alternatives are beyond the scope of the Department's authority in issuing this proposed rule. For illustrative purposes only, however, this section presents two possible alternatives to the provisions set forth in this proposed rule.

Alternative 1: The Minimum Wage Increases by the Annual Percentage Increase in the Consumer Price Index for all Urban Consumers (CPI–U)

Executive Order 13658 directs the Secretary of Labor to determine the minimum wage beginning on January 1, 2016, by indexing future increases to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). *See* 79 FR 9851. The CPI–W is based on the expenditures of households in which more than 50 percent of household income comes from clerical or wage occupations. The CPI–W population represents about 32 percent of the total U.S. population and is a subset, or part, of the CPI–U population.

A broader CPI is the CPI–U, which covers all urban consumers, who represent about 88 percent of the total U.S. population. While the CPI–W is used to calculate Social Security cost-of-living adjustments (COLAs), most other COLAs cited in Federal legislation, such as the indexation of Federal income tax brackets, use the CPI–U.

Under this alternative, the minimum wage increases by the annual percentage in the CPI–U. Table 1 below shows the annual percentage changes of the CPI–W and CPI–U for 2008–2013.

TABLE 1—THE CPI–W AND CPI–U FOR 2008–2013

Year	CPI–W (%)	CPI–U (%)
2008	4.1	3.8
2009	−0.7	−0.4
2010	2.1	1.6
2011	3.6	3.2
2012	2.1	2.1
2013	1.4	1.5

(**Source:** U.S. DOL, BLS, All items (1982–84 = 100).

The CPI–U generally has lower annual percentage changes and therefore, the minimum wage increase by the annual percentage increase in the CPI–U would likely result in a slightly smaller impact of this proposed rule. The CPI–U is about 0.2 percent lower than the CPI–W per year on average. Thus, the annual impact of this rule, starting in the second year of the rule's implementation, would be approximately 0.2 percent smaller if the CPI–U were used rather than the CPI–W. The Department rejected this regulatory alternative because it was beyond the scope of the Department's authority in issuing this proposed rule. Executive Order 13658 specifically requires the Department to utilize the CPI–W in determining the Executive Order minimum wage beginning January 1, 2016, and annually thereafter. *See* 79 FR 9851.

Alternative 2: The Minimum Wage Increases by the Annual Percentage Increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) on a Quarterly Basis

Executive Order 13658 directs the Secretary of Labor, when calculating the annual percentage increase in the CPI–W, to compare the CPI–W for the most recent month, quarter, or year available with that for the same month, quarter, or year in the preceding year. *See* 79 FR 9851. As explained above, the Secretary has proposed to base such increases on the most recent year available.

Under this alternative, the annual percentage increase in the CPI–W is calculated only by comparing the CPI–W for the most recent quarter with the same quarter in the preceding year. The impact of this alternative will be either higher or lower than that of the proposed rule. However, the Department expects that the difference would be less than one per cent of the total impact of this proposed rule.

The Department rejected this regulatory alternative because utilizing the most recent year available, rather than the most recent month or quarter, minimizes the impact of seasonal fluctuations on the Executive Order minimum wage rate.

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[24] Thompson, Jeff and Jeff Chapman, ''The Economic Impact of Local Living Wages,'' Economic Policy Institute, Briefing Paper #170, 2006.

Table A: Shares of industry output by industry

Industry	NAICS Code	Share of sector
Total Wage and Salary		1.87%
Mining	21	0.07%
Oil and gas extraction	211	0.04%
Mining, except oil and gas	212	0.12%
Utilities	22	0.33%
Construction	23	3.31%
Manufacturing	31-33	4.10%
Wholesale trade	42	1.31%
Retail trade	44, 45	0.30%
Transportation and warehousing	48, 492, 493	1.15%
Information	51	0.83%
Finance and insurance	52	0.62%
Real estate, rental, and leasing	53	0.10%
Professional, scientific, and technical services	54	8.74%
Management of companies and enterprises	55	0.00%
Administrative and support and waste management and remediation services	56	5.24%
Administrative and support services	561	4.78%
Waste management and remediation services	562	8.53%
Education services	61	2.61%
Health care and social assistance	62	0.42%
Arts, entertainment, and recreation	71	0.03%
Accommodation and food services	72	0.17%
Accommodation	721	0.12%
Food services and drinking places	722	0.19%
Other services	81	0.59%
Agriculture, forestry, fishing, and hunting	11	0.12%

Table B: Ratios of covered contracts by state and industry

State	Agricultural, forestry, fishing, and hunting	Mining	Construction	manufacturing	Wholesale trade	Retail trade	Transportation and warehousing	Utilities	Information	Finance and insurance	Real estate and rental and leasing	Professional and technical services	Management, administrative and waste management services	Educational services	Health care and social assistance	Arts, entertainment, and recreation	Accommodation and food services	Other services, except private households
AK	0.84	0	0.94	0.14	0.17	0.09	0.98	0.97	0.89	0.82	0.69	0.95	0.97	0.93	1	0.85	1	0.88
AL	0.63	0.62	0.96	0.13	0.12	0.21	0.91	0.98	0.49	0.84	0.68	0.94	0.96	0.93	0.88	0.93	0.92	0.85
AR	0.9	0	0.97	0.11	0.04	0.12	0.92	0.83	0.82	0.5	0.95	0.93	0.68	0.91	0.97	1	0.73	0.83
AZ	0.87	0.34	0.93	0.12	0.2	0.2	0.96	0.92	0.61	0.97	0.81	0.91	0.97	0.93	0.96	0.9	0.83	0.86
CA	0.78	0.2	0.95	0.11	0.03	0.06	0.93	0.85	0.62	0.95	0.82	0.91	0.97	0.85	0.95	0.89	0.69	0.75
CO	0.86	0.36	0.95	0.13	0.06	0.18	0.92	0.97	0.65	1	0.87	0.88	0.94	0.89	0.95	0.91	0.89	0.88
CT	0.47	0.13	0.96	0.04	0.05	0.12	0.92	0.98	0.65	0.87	0.86	0.84	0.96	0.95	0.93	0.92	0.25	0.83
DC	0.24	0.53	0.95	0.31	0.14	0.33	0.96	0.81	0.73	0.86	0.88	0.9	0.96	0.91	0.93	0.97	0.95	0.84
DE	1	0.93	0.13		0.18	0.81		0.96		1	0.88	0.92	0.94	0.97	0.93	0.91	0.79	0.87
FL	0.68	0.06	0.95	0.1	0.07	0.14	0.91	0.88	0.69	0.92	0.81	0.9	0.97	0.87	0.82	0.99	0.89	0.86
GA	0.61	0.48	0.95	0.1	0.06	0.17	0.93	0.93	0.63	0.99	0.87	0.92	0.96	0.8	0.82	0.91	0.89	0.82
HI	0.74	0.19	0.98	0.15	0.05	0.13	0.99	0.9	0.79	1	0.97	0.94	0.99	0.93	0.98	1	0.98	0.89
IA	0.2	0	0.97	0.08	0.08	0.07	0.73	0.95	0.77	1	0.63	0.9	0.96	0.93	0.97	0.83	0.73	0.91
ID	0.74	0.14	0.96	0.12	0.05	0.26	0.98	0.96	0.78	1	0.89	0.94	0.99	0.91	0.99	0.9	0.45	0.93
IL	0.7	0.11	0.93	0.07	0.01	0.08	0.9	0.95	0.42	0.89	0.86	0.87	0.93	0.97	0.95	0.67	0.98	0.82
IN	0.38	0.36	0.89	0.05	0.06	0.16	0.8	0.72	0.66	1	0.71	0.88	0.99	0.93	0.92	1	0.99	0.76
KS	0.83	0.06	0.96	0.1	0.1	0.18	0.91	0.96	0.63	0.97	0.79	0.93	0.99	0.93	1	0.96	0.98	0.88
KY	0.83	0.06	0.94	0.06	0.07	0.11	0.93	0.98	0.63	0.98	0.91	0.9	0.97	0.94	0.99	0.95	0.96	0.85
LA	0.8	0.44	0.96	0.09	0.05	0.2	0.98	0.94	0.61	0.93	0.9	0.95	0.94	0.93	0.98	0.97	0.94	0.77
MA	0.4	0.54	0.95	0.08	0.06	0.1	0.95	0.94	0.47	0.95	0.92	0.95	0.89	0.88	0.93	0.88	0.77	0.83
MD	0.25	0.28	0.94	0.16	0.12	0.25	0.92	0.93	0.67	0.89	0.89	0.92	0.95	0.94	0.93	0.9	0.96	0.83
ME	0.47	0	0.97	0.18	0.13	0.22	0.93	0.7	0.62	1	0.99	0.91	0.97	0.94	0.94	1	0.29	0.86
MI	0.96	0.41	0.9	0.04	0.05	0.11	0.94	0.94	0.62	0.34	0.8	0.91	0.98	0.83	0.89	0.88	0.87	0.91
MN	0.84	0	0.95	0.04	0.05	0.1	0.84	0.99	0.48	0.99	0.91	0.89	0.96	0.91	0.96	1	0.85	0.82
MO	0.68	0.36	0.95	0.08	0.02	0.21	0.95	0.94	0.37	0.96	0.77	0.79	0.98	0.93	0.97	0.9	0.98	0.85
MS	0.89	0.07	0.94	0.14	0.03	0.21	0.87	0.95	0.56	1	0.85	0.92	0.97	0.87	1	0.86	0.92	0.87
MT	0.91	0.54	0.95	0.08	0.06	0.1	0.98	0.94	0.83	1	0.96	0.93	0.97	0.86	0.96	1	0.83	0.87
NC	0.74	0.03	0.96	0.08	0.08	0.24	0.97	0.9	0.7	0.95	0.91	0.91	0.95	0.92	0.95	0.9	0.97	0.84
ND	0.6	0.14	0.97	0.13	0.03	0.03	0.95	0.99	0.89	1	0.77	0.94	0.98	0.98	0.95	0.8	0.9	0.96
NE	0.82	0.1	0.96	0.1	0.13	0.16	0.95	0.93	0.66	1	0.73	0.97	0.98	0.89	0.97	0.9	0.88	0.89
NH	0.89	0.15	0.95	0.1	0.13	0.1	0.93	0.97	0.52	0.98	0.84	0.63	0.98	0.86	0.94	1	0.97	0.7
NJ	0.7	0.28	0.95	0.05	0.01	0.08	0.91	0.88	0.64	0.88	0.91	0.93	0.95	0.93	0.99	0.96	0.7	0.8
NM	0.91	0.53	0.94	0.14	0.07	0.19	0.98	0.97	0.74	0.97	0.84	0.93	0.98	0.94	0.91	1	0.97	0.87
NV	0.86	0.3	0.95	0.19	0.06	0.11	0.98	0.91	0.57	1	0.96	0.91	0.98	0.96	0.98	0.97	0.91	0.84
NY	0.5	0.21	0.93	0.05	0.03	0.06	0.71	0.93	0.56	0.82	0.93	0.92	0.96	0.82	0.99	0.87	0.93	0.82
OH	0.42	0.11	0.96	0.06	0	0.15	0.94	0.91	0.62	1	0.9	0.96	0.99	0.94	0.97	0.77	0.92	0.88
OK	0.86	0.32	0.95	0.15	0.08	0.16	0.99	0.84	0.72	1	0.83	0.9	0.98	0.91	0.96	0.94	0.66	0.91
OR	0.93	0.44	0.93	0.13	0.08	0.1	0.92	0.92	0.59	0.86	0.96	0.96	0.94	0.9	0.99	0.88	0.82	0.84
PA	0.52	0.1	0.92	0.05	0	0.2	0.91	0.77	0.69	0.95	0.92	0.91	0.97	0.92	0.95	0.82	0.33	0.8
RI	0.5	1	0.03		0.15	0.37		0.96		0.5	0.98	0.9	0.91	0.94	0.9	0.95	0.9	0.85
SC	0.93	0.17	0.94	0.08	0.04	0.21	0.91	0.95	0.65	0.98	0.8	0.95	0.95	0.92	0.85	0.94	0.72	0.83
SD	0.94	0	0.98	0.11	0.14	0.2	1	0.98	0.87	0.95	0.76	0.96	0.93	0.98	0.98	0.91	0.96	0.89
TN	0.93	0.32	0.93	0.06	0.08	0.19	0.92	0.92	0.73	0.97	0.95	0.78	0.98	0.84	0.88	1	0.9	0.82
TX	0.52	0.16	0.9	0.1	0.08	0.24	0.91	0.92	0.53	0.88	0.88	0.91	0.94	0.94	0.98	0.88	0.88	0.83
UT	0.83	0.04	0.94	0.13	0.07	0.13	0.95	0.99	0.55	0.97	0.9	0.94	0.97	0.64	0.94	0.89	0.68	0.9
VA	0.32	0.07	0.93	0.2	0.05	0.3	0.93	0.91	0.72	0.96	0.92	0.89	0.96	0.87	0.96	0.92	0.93	0.74
VT	1	0	0.96	0.05	0.13	0.3	1	0.76	0.5	1	0.76	0.87	0.96	0.95	0.96	0.83	0.95	0.88
WA	0.73	0.13	0.95	0.11	0.09	0.13	0.91	0.96	0.69	0.9	0.94	0.95	0.98	0.9	0.97	0.91	0.97	0.9
WI	0.76	0.09	0.95	0.04	0.04	0.04	0.97	0.96	0.75	0.96	0.99	0.9	0.96	0.91	0.88	0.87	0.63	0.84
WV	0.84	0	0.93	0.11	0.09	0.15	0.97	0.94	0.7	1	0.9	0.86	0.96	0.96	0.98	0.73	0.94	0.84
WY	0.81	0.11	0.95	0.19	0.13	0.18	1	0.97	0.64	1	0.85	0.89	0.98	0.97	0.96	0.83	0.92	0.89

Table C: Number of affected workers by state and industry

Number of workers paid hourly rates bewteen $7.25 and $10.09 by state and major industry, 2013 annual averages.

States	Total	Agricultural, forestry, fishing, and hunting	Mining	Construction	Durable goods manufacturing	Nondurable goods manufacturing	Wholesale trade	Retail trade	Transportation and warehousing	Utilities	Information	Finance and insurance	Real estate and rental and leasing	Professional and technical services	Management, administrative and waste management services	Educational services	Health care and social assistance	Arts, enterainment, and recreation	Accommodation and food services	Other services, except private households
	183,814	345	6	21,333	2,835	2,729	239	2,338	6,800	108	1,299	1,803	254	27,865	69,505	25,168	10,244	229	6,411	4,302
AK	200	0.2	0.0	10.9	1.6	1.6	1.4	2.8	18.4	1.2	3.7	2.4	0.1	12.4	59.5	50.5	13.1	0.3	15.8	4.4
AL	2,784	0.8	0.0	407.7	187.1	83.3	9.9	56.9	113.9	3.9	7.4	12.1	3.3	301.2	832.2	383.5	146.7	3.8	121.5	109.0
AR	974	5.6	0.0	164.2	18.3	49.8	1.6	14.7	7.2	1.2	10.1	8.4	2.8	78.2	354.9	47.7	131.4	1.2	44.5	32.3
AZ	5,076	9.4	0.0	617.3	97.1	68.1	22.6	48.1	174.6	0.0	22.7	43.3	9.2	663.9	2083.4	774.0	244.1	7.0	134.8	56.7
CA	23,362	149.2	0.3	2239.1	477.3	577.4	16.7	99.4	940.6	17.8	149.3	241.8	22.1	2979.2	10868.4	2374.9	994.5	30.0	700.9	482.8
CO	3,026	1.5	0.4	271.9	45.2	31.9	2.3	37.2	69.0	4.3	28.2	16.1	4.2	754.5	1089.8	393.3	77.2	2.9	119.0	76.9
CT	893	0.6	0.0	100.6	6.5	3.6	0.3	13.5	20.0	1.5	8.1	5.8	0.7	164.1	279.5	197.1	61.7	2.2	9.3	17.6
DC	166	0.0	0.0	21.9	0.0	1.8	0.2	4.2	2.1	0.0	1.2	1.8	0.0	12.6	62.3	33.0	9.6	0.2	9.6	5.0
DE	502	2.7	0.0	6.2	0.0	0.0	2.8	42.3	0.0	0.0	0.0	8.4	0.1	57.3	216.7	106.0	30.6	1.1	17.5	10.7
FL	11,261	5.6	0.0	1244.2	50.2	98.8	13.9	133.8	401.9	2.7	134.2	95.7	19.7	1697.6	5161.2	1099.5	464.0	21.3	385.9	231.0
GA	7,229	4.9	0.0	821.8	138.9	122.4	11.9	83.0	316.0	10.9	21.4	63.0	6.0	786.3	3506.6	720.2	235.0	5.0	248.8	126.5
HI	727	1.5	0.0	112.6	1.1	15.8	1.1	7.4	50.9	0.7	3.2	6.3	1.0	67.4	244.8	114.9	29.0	0.9	49.3	18.8
IA	2,103	1.2	0.0	176.9	32.2	52.0	3.3	14.1	27.5	1.4	36.3	16.7	1.4	317.2	821.7	347.9	149.0	2.1	68.0	34.6
ID	1,138	6.8	0.0	160.8	16.1	34.0	1.3	29.6	55.3	1.3	18.1	16.4	1.5	140.4	385.7	177.6	59.1	1.4	19.4	13.0
IL	6,560	6.1	0.1	567.9	139.1	79.1	1.7	46.8	396.5	0.0	45.3	80.4	3.2	1201.0	2290.0	939.5	326.9	5.0	307.7	123.5
IN	4,496	4.8	0.3	467.5	73.2	51.8	4.6	59.7	94.7	3.2	45.2	26.1	2.4	285.3	2092.8	767.7	185.0	6.8	197.5	127.6
KS	2,327	0.8	0.0	231.0	52.6	31.3	3.3	27.5	42.1	0.0	13.4	17.6	2.9	419.8	708.2	484.8	138.7	3.2	93.4	56.0
KY	3,304	5.0	0.1	307.5	45.4	32.2	5.3	30.5	183.7	2.2	23.4	21.6	10.2	436.0	1233.1	554.7	213.6	1.8	120.3	77.8
LA	2,490	2.8	1.3	631.8	39.9	8.4	4.5	62.5	99.5	8.4	11.4	12.8	2.8	302.1	684.9	164.9	274.0	2.4	108.1	67.0
MA	2,480	1.6	0.0	213.7	22.7	38.7	4.4	29.7	94.3	0.0	4.8	15.1	4.6	365.4	1085.4	238.4	178.5	7.2	88.8	86.8
MD	3,312	0.6	0.0	294.5	22.6	69.1	4.8	71.9	43.1	0.0	33.3	15.8	3.7	863.1	1069.4	484.8	109.1	3.9	117.5	105.0
ME	575	0.9	0.0	70.7	18.6	10.0	2.9	21.6	3.6	1.6	7.9	10.3	1.0	47.2	158.3	129.7	66.3	1.5	11.0	12.2
MI	5,443	19.9	0.0	418.2	76.1	39.2	7.5	56.9	150.2	4.0	62.1	45.8	7.0	647.9	2115.7	1032.3	338.1	9.6	234.5	178.3
MN	2,602	7.8	0.0	189.2	12.1	24.2	2.5	31.6	108.2	2.3	19.0	28.6	1.8	359.2	1082.8	324.9	170.8	5.6	137.9	93.6
MO	2,841	8.2	0.2	232.5	37.3	41.5	1.0	63.9	125.3	5.3	4.4	36.9	4.1	316.4	873.8	636.8	273.0	6.0	126.5	48.1
MS	1,403	6.4	0.1	190.4	93.2	89.2	0.8	36.2	72.6	2.1	3.2	16.2	1.3	62.0	446.9	147.7	134.5	3.0	53.3	43.6
MT	437	1.6	0.1	34.6	4.3	4.3	0.2	4.3	17.9	0.6	5.6	14.4	0.5	17.6	156.6	96.2	40.3	0.5	29.4	8.1
NC	7,630	10.7	0.0	777.4	53.2	149.7	19.6	124.8	269.9	0.0	20.8	62.1	8.3	1055.1	3323.1	841.4	470.2	8.1	264.9	170.5
ND	328	1.2	0.1	11.4	10.2	6.0	0.1	1.3	14.7	0.5	8.3	3.2	0.5	87.2	62.0	72.3	26.7	0.7	14.7	6.9
NE	1,331	7.3	0.0	162.7	22.8	45.3	5.3	19.2	30.4	0.0	12.8	23.4	2.8	230.2	432.8	186.2	79.8	1.4	43.5	24.5
NH	660	1.2	0.0	68.4	11.6	5.8	2.0	8.8	18.2	0.4	4.5	2.0	0.2	89.5	240.2	135.3	31.1	1.1	30.7	9.3
NJ	3,753	1.1	0.0	471.7	21.2	34.5	1.3	25.5	143.2	1.7	8.3	30.5	8.5	599.7	1571.9	473.1	223.2	3.7	88.3	45.4
NM	1,619	1.3	0.4	192.8	4.0	23.6	0.9	18.2	7.7	0.0	16.7	3.8	1.0	476.2	302.1	387.9	110.3	3.0	46.2	23.0
NV	1,609	1.0	0.1	106.3	21.3	13.9	2.2	14.1	89.4	0.0	14.0	7.5	2.9	367.4	700.7	123.3	46.2	6.9	73.2	18.0
NY	8,778	1.9	0.0	649.5	56.3	58.9	5.0	45.7	344.2	0.0	69.2	90.7	22.1	2785.4	2299.3	1171.1	661.8	8.8	292.1	215.7
OH	5,483	4.9	0.0	352.5	85.8	75.5	0.0	70.0	217.1	2.2	40.0	87.2	12.1	663.4	2261.9	662.3	511.2	6.5	298.4	131.8
OK	2,418	1.8	0.5	366.9	52.5	20.0	3.5	38.1	83.4	0.0	18.8	53.1	5.0	122.3	711.8	681.0	148.3	3.9	69.3	37.6
OR	1,000	5.0	0.0	94.3	21.7	26.6	1.9	10.0	43.3	0.0	8.7	1.7	1.2	186.6	298.8	178.7	47.4	0.9	45.3	28.1
PA	6,011	12.2	0.0	628.3	58.4	63.4	0.0	128.1	278.4	2.3	87.1	114.6	8.0	702.6	1806.9	1365.1	470.2	9.2	104.3	171.3
RI	377	0.1	0.0	0.8	0.0	0.0	1.1	16.3	0.0	0.0	0.0	2.5	0.9	33.8	173.8	70.8	34.6	0.5	25.7	16.2
SC	3,503	0.0	0.0	403.6	74.6	61.4	1.4	61.5	124.2	0.0	11.5	28.8	8.0	755.4	1137.6	519.6	153.4	3.2	104.1	54.7
SD	470	2.4	0.0	42.3	7.5	8.6	1.2	11.3	8.2	0.0	3.7	10.4	0.0	53.7	108.2	127.0	45.7	1.1	27.4	11.7
TN	4,513	4.8	0.0	525.9	49.4	28.5	5.7	69.3	278.6	0.0	39.2	13.0	3.6	567.6	1799.9	561.5	275.6	6.3	155.8	128.1
TX	22,416	11.5	2.3	4593.4	329.9	239.7	36.2	347.1	804.0	14.1	87.3	222.4	33.2	3465.0	6927.3	2936.7	1153.5	10.3	651.9	550.4
UT	2,348	1.6	0.0	338.7	63.5	40.9	2.0	25.0	84.9	1.5	16.8	30.4	1.3	784.3	486.4	269.2	92.7	2.2	52.7	54.0
VA	5,235	2.3	0.0	815.5	123.7	77.1	2.7	119.5	98.6	0.0	43.1	56.7	9.8	628.1	1931.1	823.1	177.7	4.6	192.5	128.4
VT	165	1.0	0.0	12.2	1.2	1.9	0.8	5.7	5.8	0.0	2.3	1.5	0.0	10.7	50.8	48.5	10.6	0.2	7.3	4.3
WA	1,206	7.8	0.0	158.9	15.4	23.3	7.4	14.5	37.6	0.0	12.2	5.1	2.0	128.3	427.6	176.9	62.1	2.6	82.9	41.9
WI	3,934	6.4	0.0	173.2	34.3	45.5	3.0	13.6	123.8	6.5	41.6	42.2	2.3	592.0	2027.7	366.1	188.2	6.0	108.1	153.7
WV	1,091	0.0	0.0	161.0	4.9	16.4	3.1	14.9	59.6	1.5	5.4	30.3	1.4	109.8	389.3	119.4	112.8	0.9	40.6	19.8
WY	227	0.7	0.1	20.4	3.0	3.3	0.3	5.8	6.3	0.3	3.8	0.0	0.8	15.7	69.2	48.9	17.0	0.6	20.5	10.3

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VI. Regulatory Flexibility Act/Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' Public Law 96–354. To achieve that objective, the Act requires agencies promulgating proposed rules to prepare an initial regulatory flexibility analysis, and to develop alternatives whenever possible, when drafting regulations that will have a significant economic impact on a substantial number of small entities. The Act requires the consideration of the impact of a proposed regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603. If the determination is that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. *Id.*

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. *See* 5 U.S.C. 605. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The Department is publishing this initial regulatory flexibility analysis to aid stakeholders in understanding the small entity impacts of the proposed rule and to obtain additional information on the small entity impacts. The Department invites interested persons to submit comments on the following estimates, including the number of small entities affected by the Executive Order minimum wage requirements, the compliance cost estimates, and whether alternatives exist that will reduce the burden on small entities while still remaining consistent with the objectives of Executive Order 13658.

Why the Department is Considering Action: The Department has published this proposed rule to implement the requirements of Executive Order 13658, ''Establishing a Minimum Wage for Contractors.'' The Executive Order grants responsibility for enforcement of the Order to the Secretary of Labor.

Objectives of and Legal Basis for Rule: This rule will provide guidance on how to comply with the minimum wage requirements of Executive Order 13658 and how the Department intends to administer and enforce such requirements. Section 5(a) of the Executive Order grants authority to the Secretary to investigate potential violations of and obtain compliance with the Order. 79 FR 9852. Section 4(a) of the Executive Order directs the Secretary to issue regulations to implement the requirements of the Order. *Id.*

Compliance Requirements of the Proposed Rule, Including Reporting and Recordkeeping: As explained in this proposed rule, Executive Order 13658 provides that agencies must, to the extent permitted by law, ensure that new contracts, as described in section 7 of the Order, include a clause specifying, as a condition of payment, that the minimum wage to be paid to workers in the performance of the contract shall be at least: (i) $10.10 per hour beginning January 1, 2015; and (ii) an amount determined by the Secretary, beginning January 1, 2016, and annually thereafter. 79 FR 9851. Section 7(d) of the Executive Order establishes that this minimum wage requirement only applies to a new contract if: (i)(A) It is a procurement contract for services or construction; (B) it is a contract for services covered by the SCA; (C) it is a contract for concessions, including any concessions contract excluded from the SCA by the Department's regulations at 29 CFR 4.133(b); or (D) it is a contract entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (ii) the wages of workers under such contract are governed by the FLSA, the SCA, or the DBA. 79 FR 9853. Section 7(e) of the Order states that, for contracts covered by the SCA or the DBA, the Order applies only to contracts at the thresholds specified in those statutes. *Id.* It also specifies that, for procurement contracts where workers' wages are governed by the FLSA, the Order applies only to contracts that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to the Order pursuant to regulations or actions taken under section 4 of the Order. 79 FR 9853.

This NPRM, which implements the coverage provisions and minimum wage requirements of Executive Order 13658, contains several provisions that could be considered to impose compliance requirements on contractors. The general requirements with which contractors must comply are set forth in proposed subpart C of this part. Contractors are obligated by Executive Order 13658 and this proposed rule to abide by the terms of the Executive Order minimum wage contract clause. Among other requirements set forth in the contract clause, contractors must pay no less than the applicable Executive Order minimum wage to workers for all time worked on or in connection with a covered contract. Contractors must also include the Executive Order minimum wage contract clause in subcontracts and lower-tiered contracts.

The proposed rule also requires contractors to make and maintain, for three years, records containing the information enumerated in proposed § 10.26(a)(1)–(4) for each worker: Name, address, and Social Security number; the rate or rates of wages paid to the worker; the number of daily and weekly hours worked by each worker; and any deductions made. However, the records required to be kept by contractors pursuant to this part are coextensive with recordkeeping requirements that already exist under, and are consistent across, the FLSA, SCA, and DBA; as a result, a contractor's compliance with these payroll records obligations will not impose any obligations to which the contractor is not already subject under the FLSA, SCA, or DBA. The proposed rule does not impose any reporting requirements on contractors.

Contractors are also obligated to cooperate with authorized representatives of the Department in the inspection of records, in interviews with workers, and in all aspects of investigations. The proposed rule and the proposed Executive Order minimum wage contract clause set forth other contractor requirements pertaining to, inter alia, permissible deductions and frequency of pay, as well as prohibitions against taking kickbacks from wages paid on covered contracts and retaliating against workers because they have filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or have testified or are about to testify in any such proceeding.

All small entities subject to the minimum wage requirements of Executive Order 13658 and this proposed rule would be required to comply with all of the provisions of the NPRM. Such compliance requirements

are more fully described above in other portions of this preamble. The following section analyzes the costs of complying with the Executive Order minimum wage requirement for small contractor firms.

Calculating Impact of Proposed Rule on Small Business Firms: The Department must determine the compliance cost of this proposed rule on small contractor firms (*i.e.,* small business firms that enter into covered contracts with the Federal Government), and whether these costs will be significant for a substantial number of small contractor firms. If the estimated compliance costs for affected small contractor firms are less than three percent of small contractor firms' revenues, the Department considers it appropriate to conclude that this proposed rule will not have a significant economic impact on the small contractor firms covered by Executive Order 13658. The Department has chosen three percent as our significance criteria; however, using this benchmark as an indicator of significant impact may overstate the significance of such an impact, due to offsetting of the costs associated with the increased wages by the benefits of raising the minimum wage, which are difficult to quantify. The benefits, which include reduced absenteeism, reduced employee turnover, increased employee productivity, and improved employee morale, are discussed more fully in the Executive Order 12866 section of this preamble.

The data sources used in the analysis of small business impact are the Small Business Administration's (SBA) Table of Small Business Size Standards, the Current Population Survey (CPS), and the U.S. Census Bureau's Statistics of U.S. Businesses. In addition, the industrial classifications identifying most Federal contracts covered by Executive Order 13658 are found within the following nine industries: Construction (North American Industry Classification System (NAICS) code 23); transportation and warehousing (NAICS codes 48, 492, and 493); data processing, hosting, related services, and other information services (NAICS codes 518 and 519); administrative and support and waste management and remediation services (NAICS code 56); education services (NAICS code 61); health care and social assistance (NAICS code 62); accommodation and food services (NAICS code 72); other services (NAICS code 81); and agriculture, forestry, fishing, and hunting (NAICS code 11). The Department focused its analysis on these nine industries, under which most Federal contractors covered by Executive Order 13658 are classified. Because data limitations do not allow us to determine which of the small firms within these industries are Federal contractors, the Department assumed that these small firms are not significantly different from the small Federal contractors that will be directly affected by the proposed rule.

The Department used the following steps to estimate the cost of the proposed rule per small contractor firm as measured by a percentage of total annual receipts. First, the Department utilized Census SUSB data that disaggregates industry information by firm size in order to perform a robust analysis of the impact on small contractor firms. The Department applied the SBA small business size standards to the SUSB data to determine the number of small firms in each of the nine affected industries, as well as the total number of employees in small firms in the nine affected industries. Next, the Department calculated the number of employees per small firm by dividing the total number of employees in small firms in the nine affected industries by the number of small firms.

However, since the Department knows that not all workers in small contractor firms earn less than $10.10 per hour, the Department next estimated how many employees of small firms (i.e., all small businesses in the identified industries in the U.S. economy) earn less than $10.10 per hour (these employees are referred to as affected employees in the text and summary tables below). The Department used the same CPS data that was used in the Executive Order 12866 section of this preamble to ascertain the number of workers paid less than $10.10 per hour by industry. The data was then coupled with the employment levels for each industry to derive the percent of workers within an industry who will be affected by the proposed minimum wage increase. The Department assumes that wage distribution of contract workers covered by this proposed rule is the same as that of workers in the rest of the U.S. economy.

The Department then calculated the number of affected employees of small firms by multiplying the number of employees per small firm by the percentage of employees earning less than $10.10 per hour. Next, the Department calculated the cost of the increased minimum wage per small firm by multiplying the number of affected workers per small firm by the average wage difference of $1.31 per hour ($10.10 minus the average wage of $8.79 per hour as explained in the economic analysis for this proposed rule) by the number of work hours per year (2,080 hours). Finally, the Department used receipts data from the SUSB to calculate the cost per small firm as a percent of total receipts by dividing the estimated annual cost per firm by the average annual receipts per firm. This methodology was applied to the nine industries where covered contract work principally is performed and the results by industry are presented in the summary tables below (*see* Tables D–1 to D–9).

In sum, the increased wage cost resulting from the proposed rule is de minimis relative to revenue at small firms, and hence small contractor firms no matter their size. All of the relevant industries had an annual cost per firm as a percent of receipts of 3.0 percent or less. For instance, the construction industry cost is estimated to range from 0.07 percent for firms that have annual receipts of approximately $30 million to 0.16 percent for firms that have annual receipts of under $2.5 million. Accommodation and food services is the industry with the highest relative costs, with a range of 2.31 percent for firms that have annual receipts of approximately $35 million to 2.94 percent for the firms that have annual receipts of under $2.5 million. A potential reason that this part has a relatively higher impact on the accommodation and food services industry is the relatively large number of low wage workers in the service industry, many of whom are tipped workers. In no instance is the effect of the wage increase greater than three percent of total receipts.

Although the Department estimates that compliance costs are less than three percent of the average revenue per small contractor firm for each of the nine industries, the Department seeks data and feedback from small firms with concessions contracts, particularly those that are exempt from the SCA but are covered under Executive Order 13658. Information and data regarding the numbers of businesses and small businesses newly affected by this proposed rule would be particularly useful. The Department would also appreciate feedback on the factors and assumptions used in this analysis, such as data sources, small business industries, NAICS codes and size standards, the number of affected employees and annual costs per firm as a percent of receipts. The Department seeks information about which data sources should be utilized to estimate the number of Federal small subcontractors. The Department also seeks information about the potential compliance cost estimates of the

minimum wage requirements, such as any differences in compliance costs for small businesses as compared to larger businesses and any compliance costs that may not have been included in this analysis. The Department specifically seeks data and feedback about the proposed rule's potential impact on management and human resources costs, impacts on staffing, and other related issues.

Estimating the Number of Small Businesses Affected by the Rulemaking: The Department now sets forth its estimate of the number of small contractor firms actually affected by the proposed rule. This information is not readily available. The best source for the number of small contractor firms that are affected by this proposed rule is GSA's System for Award Management (SAM). The Department used SAM data to estimate the number of affected small contractor firms since SAM data allow us to directly estimate the number of small contractor firms. Federal contractor status cannot be discerned from the SBA firm size data: it can only be used to estimate the number of small firms, not the number of small contractor firms. The Department used the SBA data to estimate the impact of the proposed regulation on a 'typical' or 'average' small firm in each of the nine industries identified above. The Department then assumed that a typical small firm is similar to a small contractor firm.

Based on the most current SAM data available, if the Department defined *small* as fewer than 500 employees, then there are 328,552 small contractor firms. If the Department defined *small* as firms with less than $35.5 million in revenues, then there are 315,902 small contractor firms. Thus, the Department established the range 315,902 to 328,552 as the total number of small contractor firms. Of course, not all of these contractor firms will be impacted by the proposed rule; only those contractors that are paying less than $10.10 per hour to any of their workers performing on covered contracts would be affected. Thus, this range is an overestimate of the number of firms affected by the proposed rule because some of those small contractor firms may pay all of their workers more than $10.10 per hour. The Department does not have more precise estimates of either the number of workers employed by small contractor firms or the number of small contractor firms with workers earning less than $10.10 per hour. The Department invites the public to provide information related to these two data limitations, and any data on small subcontractors.

The proposed regulation applies only to new contracts. As explained in the regulatory analysis, based on the 2012 SBA study, the Department assumed that roughly 18 percent of existing small contractor firms are awarded new contracts each year. Under the scenario that this proposed rule will impact only 18 percent [25] of the small firms performing Federal contracts in the first year, a maximum of between 56,862 and 59,139 small businesses would be impacted. When this rule's impact is fully manifested by the end of 2019, all covered Federal contracts held by small firms with workers earning less than $10.10 per hour would be impacted.

Relevant Federal Rules Duplicating, Overlapping, or Conflicting with the Rule: Section 4(a) of the Executive Order requires the FARC to issue regulations to provide for inclusion of the applicable contract clause in Federal procurement solicitations and contracts subject to the Order; thus, the contract clause and some requirements applicable to contracting agencies will appear in both this part and in the FARC regulations. The Department is not aware of any relevant Federal rules that conflict with this NPRM.

Alternatives to the Proposed Rule

Executive Order 13658 is prescriptive and does not authorize the Department to consider less burdensome alternatives for small businesses. However, if stakeholders can identify alternatives that would accomplish the stated objectives of Executive Order 13658 and minimize any significant economic impact of the proposed rule on small entities, the Department would welcome that feedback. Below, the Department considers the specific alternatives required by section 603(c) of the RFA.

Differing Compliance and Reporting Requirements for Small Entities: This NPRM provides for no differing compliance requirements and reporting requirements for small entities. The Department has strived to have this proposal implement the minimum wage requirements of Executive Order 13658 with the least possible burden for small entities. The NPRM provides a number of efficient and informal alternative dispute mechanisms to resolve concerns about contractor compliance, including having the contracting agency provide compliance assistance to the contractor about the minimum wage requirements, and allowing for the Department to attempt an informal conciliation of complaints instead of engaging in extensive investigations. These tools will provide contractors with an opportunity to resolve inadvertent errors rapidly and before significant liabilities develop.

Clarification, Consolidation, and Simplification of Compliance and Reporting Requirements for Small Entities: This NPRM was drafted to clearly state the compliance requirements for all contractors subject to Executive Order 13658. The proposed rule does not contain any reporting requirements. The recordkeeping requirements imposed by this proposed rule are necessary for contractors to determine their compliance with the rule as well as for the Department and workers to determine the contractor's compliance with the law. The recordkeeping provisions apply generally to all businesses—large and small—covered by the Executive Order; no rational basis exists for creating an exemption from compliance and recordkeeping requirements for small businesses. The Department makes available a variety of resources to employers for understanding their obligations and achieving compliance.

Use of Performance Rather Than Design Standards: This NPRM was written to provide clear guidelines to ensure compliance with the Executive Order minimum wage requirements. Under the proposed rule, contractors may achieve compliance through a variety of means. The Department makes available a variety of resources to contractors for understanding their obligations and achieving compliance.

Exemption from Coverage of the Rule for Small Entities: Executive Order 13658 establishes its own coverage and exemption requirements; therefore, the Department has no authority to exempt small businesses from the minimum wage requirements of the Order.

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[25] The Department assumed 18 percent of small contractors are new to Federal contracting each year based on the 2012 SBA study (Small Business Administration, ''Characteristics of Recent Federal Small Business Contracting,'' May, 2012). The 2012 SBA study shows that 17.65 percent of small businesses were new to Federal contracting each year between FY 2005 and FY 2009, and the Department rounded it up to 18 percent in this analysis. This 18 percent is separate and distinct from the Department's use of 20 percent as the number of Federal contracts that are initiated each year, which is used in the Executive Order 12866 regulatory analysis.

Table D-1: Cost per small firm in the construction industry

Construction Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm[1]	Total Number of Affected Employees[2]	Average Number of Affected Employees per Firm[3]	Annual Cost per Firm[4]	Annual Receipts	Average Receipts per Firm[5]	Annual Cost per Firm as Percent of Receipts[6]
Firms with sales/receipts/revenue of $100,000 to $2,499,999	551,235	2,469,299	4.5	197,297	0.4	$975	$342,193,905,000	$620,777	0.16%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	47,962	864,701	18.0	69,090	1.4	$3,925	$167,758,626,000	$3,497,740	0.11%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	16,992	492,370	29.0	39,340	2.3	$6,309	$102,502,053,000	$6,032,371	0.10%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	7,801	308,512	39.5	24,650	3.2	$8,610	$66,977,650,000	$8,585,777	0.10%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	8,259	427,159	51.7	34,130	4.1	$11,260	$99,174,146,000	$12,008,009	0.09%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	4,354	289,441	66.5	23,126	5.3	$14,473	$73,881,089,000	$16,968,555	0.09%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	2,611	209,081	80.1	16,706	6.4	$17,434	$56,928,754,000	$21,803,429	0.08%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	1,621	150,754	93.0	12,045	7.4	$20,247	$43,119,720,000	$26,600,691	0.08%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	1,171	121,928	104.1	9,742	8.3	$22,669	$36,848,837,000	$31,467,837	0.07%

Note: data for firms with sales/receipts/revenue less than $100,000 was not available or not disclosed.

1 In the case of construction firms with receipts of $100,000 to $2,499,999, the average number of employees per firm (4.5) was derived by dividing the total number of employees (2,469,299) by the number of firms (551,235).

[2] As explained in the report, the total number of affected employees (197,297) was derived by multiplying the estimated percent of employees earning less than $10.10 per hour (7.99 percent) by total the number of employees (2,469,299).

[3] The average number of affected employees per firm (0.38 percent) was derived by dividing the total number of affected employees (197,297) by the number of firms (551,235).

[4] The annual cost per firm ($975) was derived by multiplying the average number of affected employees per firm (0.358) by the average wage difference ($1.31 per hour) and the number of working hours per year (2,080 hours).

[5] The average receipts per firm ($620,777) was derived by dividing the total annual receipts ($342.2 billion) by the number of firms (551,235).

[6] The annual cost per firm as a percent of receipts (0.16 percent) was derived by dividing the annual cost per firm ($975) by the average receipts per firm ($620,777). This methodology was repeated for industries represented in Tables D-1 through D-9.

Table D-2: Cost per small firm in the transportation and warehousing industry

Transportation and Warehousing Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue of $100,000 to $2,499,999	111,279	603,955	5.4	68,549	0.6	$1,679	$64,346,445,000	$578,244	0.29%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	9,183	223,156	24.3	25,328	2.8	$7,515	$31,359,227,000	$3,414,922	0.22%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	3,550	136,436	38.4	15,485	4.4	$11,886	$20,463,648,000	$5,764,408	0.21%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	1,800	91,408	50.8	10,375	5.8	$15,705	$14,261,554,000	$7,923,086	0.20%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	1,840	123,966	67.4	14,070	7.6	$20,836	$19,933,921,000	$10,833,653	0.19%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	988	85,367	86.4	9,689	9.8	$26,722	$14,057,603,000	$14,228,343	0.19%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	621	68,836	110.8	7,813	12.6	$34,281	$11,060,118,000	$17,810,174	0.19%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	429	51,989	121.2	5,901	13.8	$37,479	$8,257,805,000	$19,248,963	0.19%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	311	45,274	145.6	5,139	16.5	$45,021	$7,184,425,000	$23,101,045	0.19%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	235	32,922	140.1	3,737	15.9	$43,326	$5,902,588,000	$25,117,396	0.17%

Note: data for firms with sales/receipts/revenue less than $100,000 was not available or not disclosed.

Table D-3: Cost per small firm in the information industry

Information Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue of $100,000 to $2,499,999	47,797	268,789	5.6	24,782	0.5	$1,413	$29,386,049,000	$614,809	0.23%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	4,508	100,331	22.3	9,251	2.1	$5,591	$15,472,313,000	$3,432,190	0.16%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	1,837	65,601	35.7	6,048	3.3	$8,972	$10,856,893,000	$5,910,121	0.15%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	1,018	46,846	46.0	4,319	4.2	$11,561	$8,447,070,000	$8,297,711	0.14%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	1,092	68,058	62.3	6,275	5.7	$15,657	$12,300,328,000	$11,264,037	0.14%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	601	49,812	82.9	4,593	7.6	$20,822	$9,293,544,000	$15,463,468	0.13%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	389	37,522	96.5	3,460	8.9	$24,233	$7,616,666,000	$19,580,118	0.12%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	270	30,523	113.0	2,814	10.4	$28,401	$6,512,265,000	$24,119,500	0.12%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	175	25,649	146.6	2,365	13.5	$36,821	$4,971,718,000	$28,409,817	0.13%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	136	21,553	158.5	1,987	14.6	$39,814	$4,082,897,000	$30,021,301	0.13%
Note: data for firms with sales/receipts/revenue less than $100,000 was not available or not disclosed.									

Table D-4: Cost per small firm in the administrative and support and waste management and remediation industry

Administrative and Support and Waste Management and Remediation Services Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue less than $2,500,000	300,501	1,788,501	6.0	400,803	1.3	$3,634	$112,570,627,000	$374,610	0.97%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	12,294	678,340	55.2	152,016	12.4	$33,692	$42,093,718,000	$3,423,924	0.98%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	4,589	434,622	94.7	97,399	21.2	$57,832	$26,428,877,000	$5,759,180	1.00%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	2,411	311,321	129.1	69,767	28.9	$78,847	$19,304,673,000	$8,006,915	0.98%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	2,309	424,912	184.0	95,223	41.2	$112,370	$24,412,659,000	$10,572,828	1.06%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	1,266	292,501	231.0	65,549	51.8	$141,082	$17,408,483,000	$13,750,776	1.03%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	724	208,939	288.6	46,823	64.7	$176,221	$12,542,375,000	$17,323,722	1.02%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	528	174,359	330.2	39,074	74.0	$201,645	$10,341,768,000	$19,586,682	1.03%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	402	173,953	432.7	38,983	97.0	$264,230	$9,015,658,000	$22,427,010	1.18%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	267	122,013	457.0	27,343	102.4	$279,043	$6,382,657,000	$23,905,082	1.17%

Table D-5: Cost per small firm in the education service industry

Education Services Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue less than $2,500,000	66,738	535,747	8.0	48,057	0.7	$1,962	###########	$406,865	0.48%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	4,302	209,778	48.8	18,817	4.4	$11,918	###########	$3,438,424	0.35%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	1,588	117,648	74.1	10,553	6.6	$18,108	$9,314,307,000	$5,865,433	0.31%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	888	83,741	94.3	7,512	8.5	$23,049	$7,129,969,000	$8,029,244	0.29%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	1,003	127,781	127.4	11,462	11.4	$31,138	###########	$11,272,191	0.28%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	461	79,059	171.5	7,092	15.4	$41,916	$6,983,007,000	$15,147,521	0.28%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	355	73,045	205.8	6,552	18.5	$50,291	$6,992,060,000	$19,695,944	0.26%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	268	70,191	261.9	6,296	23.5	$64,014	$6,343,422,000	$23,669,485	0.27%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	172	60,202	350.0	5,400	31.4	$85,548	$5,119,182,000	$29,762,686	0.29%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	138	55,753	404.0	5,001	36.2	$98,745	$4,536,897,000	$32,876,065	0.30%

Table D-6: Cost per small firm in the health care and social assistance industry

Health Care and Social Assistance Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue less than $2,500,000	559,134	3,710,875	6.6	536,221	1.0	$2,613	$286,450,355,000	$512,311	0.51%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	26,466	1,107,445	41.8	160,026	6.0	$16,475	$91,034,690,000	$3,439,685	0.48%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	9,453	712,840	75.4	103,005	10.9	$29,691	$56,541,818,000	$5,981,362	0.50%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	4,867	501,258	103.0	72,432	14.9	$40,551	$41,063,966,000	$8,437,223	0.48%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	5,198	760,603	146.3	109,907	21.1	$57,613	$61,116,459,000	$11,757,687	0.49%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	2,468	497,184	201.5	71,843	29.1	$79,318	$40,851,963,000	$16,552,659	0.48%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	1,374	347,358	252.8	50,193	36.5	$99,539	$29,140,498,000	$21,208,514	0.47%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	978	284,827	291.2	41,158	42.1	$114,669	$25,026,728,000	$25,589,701	0.45%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	665	230,360	346.4	33,287	50.1	$136,392	$20,167,268,000	$30,326,719	0.45%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	485	185,982	383.5	26,874	55.4	$150,984	$16,744,181,000	$34,524,085	0.44%

Table D-7: Cost per small firm in the accommodation and food service industry

Accommodations and Food Services Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue less than $2,500,000	452,389	4,594,026	10.2	2,161,489	4.8	$13,019	$200,413,678,000	$443,012	2.94%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	14,095	896,373	63.6	421,743	29.9	$81,530	$46,231,300,000	$3,279,979	2.49%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	3,720	403,866	108.6	190,019	51.1	$139,184	$21,249,810,000	$5,712,315	2.44%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	1,621	244,772	151.0	115,165	71.0	$193,586	$12,835,230,000	$7,918,094	2.44%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	1,628	340,741	209.3	160,319	98.5	$268,327	$17,984,834,000	$11,047,195	2.43%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	859	252,279	293.7	118,697	138.2	$376,515	$13,054,878,000	$15,197,763	2.48%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	446	170,201	381.6	80,080	179.6	$489,239	$8,420,579,000	$18,880,222	2.59%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	363	153,594	423.1	72,266	199.1	$542,453	$7,987,110,000	$22,003,058	2.47%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	241	115,452	479.1	54,320	225.4	$614,156	$6,405,041,000	$26,576,934	2.31%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	170	90,301	531.2	42,487	249.9	$680,986	$4,832,335,000	$28,425,500	2.40%

Table D-8: Cost per small firm in the other services industry

Other Services Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue less than $2,500,000	646,563	3,229,367	5.0	484,405	0.7	$2,041	$229,618,835,000	$355,138	0.57%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	16,522	531,104	32.1	79,666	4.8	$13,138	$55,620,907,000	$3,366,475	0.39%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	4,967	252,838	50.9	37,926	7.6	$20,805	$28,838,406,000	$5,806,001	0.36%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	2,326	151,376	65.1	22,706	9.8	$26,599	$18,502,407,000	$7,954,603	0.33%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	2,114	173,393	82.0	26,009	12.3	$33,524	$23,140,184,000	$10,946,161	0.31%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	1,005	104,997	104.5	15,750	15.7	$42,701	$14,696,909,000	$14,623,790	0.29%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	620	73,209	118.1	10,981	17.7	$48,261	$11,076,548,000	$17,865,400	0.27%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	405	50,974	125.9	7,646	18.9	$51,442	$8,159,095,000	$20,145,914	0.26%
Firms with sales/receipts/revenue of $30,000,000 to $34,999,999	274	42,041	153.4	6,306	23.0	$62,712	$6,643,223,000	$24,245,339	0.26%
Firms with sales/receipts/revenue of $35,000,000 to $39,999,999	227	37,259	164.1	5,589	24.6	$67,086	$5,392,740,000	$23,756,564	0.28%

Table D-9: Cost per small firm in the agriculture, forestry, fishing, and hunting industry

Agriculture, Forestry, Fishing, and Hunting Industry									
	Number of Firms	Total Number of Employees	Average Number of Employees per Firm	Total Number of Affected Employees	Average Number of Affected Employees per Firm	Annual Cost per Firm	Annual Receipts	Average Receipts per Firm	Annual Cost per Firm as Percent of Receipts
Firms with sales/receipts/revenue of $100,000 to $2,499,999	15,839	72,098	4.6	14,549	0.9	$2,503	$9,826,777,000	$620,417	0.40%
Firms with sales/receipts/revenue of $2,500,000 to $4,999,999	1,117	20,049	17.9	4,046	3.6	$9,870	$3,811,000,000	$3,411,817	0.29%
Firms with sales/receipts/revenue of $5,000,000 to $7,499,999	289	8,997	31.1	1,816	6.3	$17,118	$1,730,128,000	$5,986,602	0.29%
Firms with sales/receipts/revenue of $7,500,000-$9,999,999	165	7,588	46.0	1,531	9.3	$25,287	$1,340,763,000	$8,125,836	0.31%
Firms with sales/receipts/revenue of $10,000,000 to $14,999,999	112	6,130	54.7	1,237	11.0	$30,095	$1,288,588,000	$11,505,250	0.26%
Firms with sales/receipts/revenue of $15,000,000 to $19,999,999	55	4,042	73.5	816	14.8	$40,410	$874,841,000	$15,906,200	0.25%
Firms with sales/receipts/revenue of $20,000,000 to $24,999,999	44	5,325	121.0	1,075	24.4	$66,546	$858,761,000	$19,517,295	0.34%
Firms with sales/receipts/revenue of $25,000,000 to $29,999,999	26	2,800	107.7	565	21.7	$59,216	$595,387,000	$22,899,500	0.26%
Note: data for firms with sales/receipts/revenue less than $100,000 was not available or not disclosed.									

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VII. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532, requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing any Federal mandate that may result in excess of $100 million (adjusted annually for inflation) in expenditures in any one year by State, local, and tribal governments in the aggregate or by the private sector. The current threshold after adjustment for inflation is $141 million, using the 2012 Implicit Price Deflator for the Gross Domestic Product.

As explained in the economic analysis set forth in the section discussing Executive Orders 12866 and 13563 above, the Department estimates that the proposed rule may result in transfers of up to $500 million per year (beginning in 2019, with steady increases up to that level over the intervening years). Because this proposed rule applies only to contracts for which the solicitation will be issued on or after January 1, 2015, contractors would have the information necessary to factor into their bids the labor costs resulting from the required minimum wage, and thus it may be likely that the Federal Government would bear the burden of the transfers. However, most contracts covered by this proposed rule are paid through appropriated funds, and how Congress and agencies respond to rising bids is subject to political processes whose unpredictability limits the Department's ability to project rule-induced outcomes. The Department therefore acknowledges that this proposed rule may yield effects that make it subject to UMRA requirements. The Department carried out the requisite cost-benefit analysis in preceding sections of this document.

VIII. Executive Order 13132, Federalism

The Department has (1) reviewed this rule in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

IX. Executive Order 13175, Indian Tribal Governments

This proposed rule would not have tribal implications under Executive Order 13175 that would require a tribal summary impact statement. The proposed rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

X. Effects on Families

The undersigned hereby certifies that the proposed rule would not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

XI. Executive Order 13045, Protection of Children

This proposed rule would have no environmental health risk or safety risk that may disproportionately affect children.

XII. Environmental Impact Assessment

A review of this proposed rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR 1500 *et seq.;* and the Departmental NEPA procedures, 29 CFR part 11, indicates that the rule would not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental assessment or an environmental impact statement.

XIII. Executive Order 13211, Energy Supply

This proposed rule is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

XIV. Executive Order 12630, Constitutionally Protected Property Rights

This proposed rule is not subject to Executive Order 12630 because it does not involve implementation of a policy that has takings implications or that could impose limitations on private property use.

XV. Executive Order 12988, Civil Justice Reform Analysis

This proposed rule was drafted and reviewed in accordance with Executive Order 12988 and will not unduly burden the Federal court system. The proposed rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

List of Subjects in 29 CFR Part 10

Administrative practice and procedure, Construction, Government contracts, Law enforcement, Minimum wages, Reporting and recordkeeping requirements, Wages.

Signed at Washington, DC, this 12th day of June 2014.

David Weil,

Administrator, Wage and Hour Division.

■ For the reasons set out in the preamble, the Department of Labor proposes to amend title 29 of the Code of Federal Regulations by adding part 10 as follows:

PART 10—ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS

Subpart A—General

Sec.
10.1 Purpose and scope.
10.2 Definitions.
10.3 Coverage.
10.4 Exclusions.
10.5 Executive Order 13658 minimum wage for Federal contractors and subcontractors.
10.6 Antiretaliation.
10.7 Waiver of rights.

Subpart B—Government Requirements

10.11 Contracting agency requirements.
10.12 Department of Labor requirements.

Subpart C—Contractor Requirements

10.21 Contract clause.
10.22 Rate of pay.
10.23 Deductions.
10.24 Overtime payments.
10.25 Frequency of pay.
10.26 Records to be kept by contractors.
10.27 Anti-kickback.
10.28 Tipped employees.

Subpart D—Enforcement

10.41 Complaints.
10.42 Wage and Hour Division conciliation.
10.43 Wage and Hour Division investigation.
10.44 Remedies and sanctions.

Subpart E—Administrative Proceedings

10.51 Disputes concerning contractor compliance.
10.52 Debarment proceedings.
10.53 Referral to Chief Administrative Law Judge; amendment of pleadings
10.54 Consent findings and order.
10.55 Proceedings of the Administrative Law Judge.
10.56 Petition for review.
10.57 Administrative Review Board proceedings.
10.58 Administrator ruling.
Appendix A to Part 10

Authority: 4 U.S.C. 301; section 4, E.O. 13658, 79 FR 9851; Secretary's Order 5–2010, 75 FR 55352.

Subpart A—General

§ 10.1 Purpose and scope.

(a) *Purpose.* This part contains the Department of Labor's rules relating to the administration of Executive Order 13658 (Executive Order or the Order), ''Establishing a Minimum Wage for Contractors,'' and implements the enforcement provisions of the Executive Order. The Executive Order assigns responsibility for investigating potential violations of and obtaining compliance with the Executive Order to the Department of Labor. The Executive Order states that the Federal Government's procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. There is evidence that raising the pay of low-wage workers can increase their morale and productivity and the quality of their work, lower turnover and its accompanying costs, and reduce supervisory costs. The Executive Order thus states that cost savings and quality improvements in the work performed by parties who contract with the Federal Government will lead to improved economy and efficiency in Government procurement. Executive Order 13658 therefore generally requires that the hourly minimum wage paid by contractors to workers performing on covered contracts with the Federal Government shall be at least:

(1) $10.10 per hour, beginning January 1, 2015; and

(2) An amount determined by the Secretary of Labor, beginning January 1, 2016, and annually thereafter.

(b) *Policy.* Executive Order 13658 sets forth a general position of the Federal Government that increasing the hourly minimum wage paid by Federal contractors to $10.10 will increase efficiency and cost savings for the Federal Government. The Executive Order therefore establishes a minimum wage requirement for Federal contractors and subcontractors. The Order provides that executive departments and agencies shall, to the extent permitted by law, ensure that new covered contracts, contract-like instruments, and solicitations (collectively referred to as ''contracts'') include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, including workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c), in the performance of the contract or any subcontract thereunder, shall be at least:

(1) $10.10 per hour beginning January 1, 2015; and

(2) Beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary pursuant to the Order. Nothing in Executive Order 13658 or this part shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Order.

(c) *Scope.* Neither Executive Order 13658 nor this part creates any rights under the Contract Disputes Act or any private right of action. The Executive Order provides that disputes regarding whether a contractor has paid the minimum wages prescribed by the Order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under the Order. However, nothing in the Order or this part is intended to limit or preclude a civil action under the False Claims Act, 31 U.S.C. 3730, or criminal prosecution under 18 U.S.C. 1001. The Order similarly does not preclude judicial review of final decisions by the Secretary in accordance with the Administrative Procedure Act.

§ 10.2 Definitions.

For purposes of this part:

Administrative Review Board or Board means the Administrative Review Board, U.S. Department of Labor.

Administrator means the Administrator of the Wage and Hour Division and includes any official of the Wage and Hour Division authorized to perform any of the functions of the Administrator under this part.

Agency head means the Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an executive agency, unless otherwise indicated, including any deputy or assistant chief official of an executive agency or any persons authorized to act on behalf of the agency head.

Concessions contract or *contract for concessions* means a contract under which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services.

The term *concessions contract* includes but is not limited to a contract the principal purpose of which is to furnish food, lodging, automobile fuel, souvenirs, newspaper stands, and/or recreational equipment, regardless of whether the services are of direct benefit to the Government, its personnel, or the general public.

Contract or *contract-like instrument* means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term *contract* includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term contract shall be interpreted broadly as to include, but not be limited to, any contract that may be consistent with the definition provided in the FAR or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. The term *contract* includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, and concessions contracts not otherwise subject to the Service Contract Act. The term *contract* does not include grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended; or any contracts or contract-like instruments expressly excluded by § 10.4.

Contracting officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. This term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer.

Contractor means any individual or other legal entity that:

(1) Directly or indirectly (*e.g.,* through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract or a subcontract under a Government contract; or

(2) Conducts business, or reasonably may be expected to conduct business, with the Government as an agent or representative of another contractor. The term *contractor* refers to both a prime contractor and all of its first or lower-tier subcontractors on a contract with the Federal Government. The term *contractor* includes lessors and lessees, as well as employers of workers performing on covered Federal contracts whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c). The term *employer* is used interchangeably with the terms *contractor* and *subcontractor* in various sections of this part. The U.S. Government, its agencies, and instrumentalities are not contractors, subcontractors, employers, or joint employers for purposes of compliance with the provisions of the Executive Order.

Davis-Bacon Act means the Davis-Bacon Act of 1931, as amended, 40 U.S.C. 3141 *et seq.,* and its implementing regulations.

Executive departments and agencies means executive departments, military departments, or any independent establishments within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, and any wholly owned Government corporation within the meaning of 31 U.S.C. 9101.

Executive Order minimum wage means, for purposes of Executive Order 13658, a wage that is at least:

(1) $10.10 per hour beginning January 1, 2015; and

(2) Beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary pursuant to section 2 of the Executive Order.

Fair Labor Standards Act means the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.,* and its implementing regulations.

Federal Government means an agency or instrumentality of the United States that enters into a contract pursuant to authority derived from the Constitution or the laws of the United States. For purposes of the Executive Order and this part, this definition does not include the District of Columbia or any Territory or possession of the United States.

Independent agencies means independent regulatory agencies within the meaning of 44 U.S.C. 3502(5).

New contract means a contract that results from a solicitation issued on or after January 1, 2015, or a contract that is awarded outside the solicitation process on or after January 1, 2015. This term includes both new contracts and replacements for expiring contracts.

Office of Administrative Law Judges means the Office of Administrative Law Judges, U.S. Department of Labor.

Option means a unilateral right in a contract by which, for a specified time, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.

Procurement contract for construction means a procurement contract for the construction, alteration, or repair (including painting and decorating) of public buildings or public works and which requires or involves the employment of mechanics or laborers, and any subcontract of any tier thereunder. The term *procurement contract for construction* includes any contract subject to the provisions of the Davis-Bacon Act, as amended, and its implementing regulations.

Procurement contract for services means a procurement contract the principal purpose of which is to furnish services in the United States through the use of service employees, and any subcontract of any tier thereunder. The term *procurement contract for services* includes any contract subject to the provisions of the Service Contract Act, as amended, and its implementing regulations.

Service Contract Act means the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and its implementing regulations.

Solicitation means any request to submit offers or quotations to the Federal Government.

Tipped employee means any employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips. For purposes of the Executive Order, a worker performing on a contract covered by the Executive Order who meets this definition is a tipped employee.

United States means the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which all or substantially all of the stock is owned by the United States, by the foregoing

departments, establishments, agencies, instrumentalities, and including nonappropriated fund instrumentalities. When used in a geographic sense, the *United States* means the 50 States and the District of Columbia.

Wage and Hour Division means the Wage and Hour Division, U.S. Department of Labor.

Wage determination includes any determination of minimum hourly wage rates or fringe benefits made by the Secretary of Labor pursuant to the provisions of the Service Contract Act or the Davis-Bacon Act. This term includes the original determination and any subsequent determinations modifying, superseding, correcting, or otherwise changing the provisions of the original determination.

Worker means any person engaged in the performance of a contract covered by the Executive Order, and whose wages under such contract are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act, other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541, regardless of the contractual relationship alleged to exist between the individual and the employer. The term *worker* includes workers performing on or in connection with a covered contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) and any person working on or in connection with a covered contract and individually registered in a bona fide apprenticeship or training program registered with the U.S. Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

§ 10.3 Coverage.

(a) This part applies to any contract with the Federal Government, unless excluded by § 10.4, that results from a solicitation issued on or after January 1, 2015 or that is awarded outside the solicitation process on or after January 1, 2015, provided that:

(1) (i) It is a procurement contract for construction covered by the Davis-Bacon Act;

(ii) It is a contract for services covered by the Service Contract Act;

(iii) It is a contract for concessions, including any concessions contract excluded from coverage under the Service Contract Act by Department of Labor regulations at 29 CFR 4.133(b); or

(iv) It is a contract entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(2) The wages of workers under such contract are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.

(b) For contracts covered by the Service Contract Act or the Davis-Bacon Act, this part applies to prime contracts only at the thresholds specified in those statutes. For procurement contracts where workers' wages are governed by the Fair Labor Standards Act, this part applies when the prime contract exceeds the micro-purchase threshold, as defined in 41 U.S.C. 1902(a).

(c) This part only applies to contracts with the Federal Government requiring performance in whole or in part within the United States.

§ 10.4 Exclusions.

(a) *Grants.* The requirements of this part do not apply to grants within the meaning of the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. 6301 *et seq.*

(b) *Contracts and agreements with and grants to Indian Tribes.* This part does not apply to contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. 450 *et seq.*

(c) *Procurement contracts for construction that are excluded from coverage of the Davis-Bacon Act.* Procurement contracts for construction that are not covered by the Davis-Bacon Act are not subject to this part.

(d) *Contracts for services that are exempted from coverage under the Service Contract Act.* Service contracts, except for those expressly covered by § 10.3(a)(1)(ii) through (iv), that are exempt from coverage of the Service Contract Act pursuant to its statutory language or implementing regulations are not subject to this part.

(e) *Employees who are exempt from the minimum wage requirements of the Fair Labor Standards Act under 29 U.S.C. 213(a) and 214(a)–(b).* Except for workers who are otherwise covered by the Davis-Bacon Act or the Service Contract Act, this part does not apply to employees who are not entitled to the minimum wage set forth at 29 U.S.C. 206(a)(1) of the Fair Labor Standards Act pursuant to 29 U.S.C. 213(a) and 214(a)–(b). Pursuant to this exclusion, individuals that are not subject to the requirements of this part include but are not limited to:

(1) *Learners, apprentices, or messengers.* This part does not apply to learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a).

(2) *Students.* This part does not apply to student workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b).

(3) *Individuals employed in a bona fide executive, administrative, or professional capacity.* This part does not apply to workers who are employed by Federal contractors in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in 29 CFR part 541.

§ 10.5 Executive Order 13658 minimum wage for Federal contractors and subcontractors.

(a) *General.* Pursuant to Executive Order 13658, the minimum hourly wage rate required to be paid to workers performing on covered contracts with the Federal Government is at least:

(1) $10.10 per hour beginning January 1, 2015; and

(2) Beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary pursuant to section 2 of Executive Order 13658. In accordance with section 2 of the Order, the Secretary will determine the applicable minimum wage rate to be paid to workers on covered contracts on an annual basis beginning at least 90 days before any new minimum wage is to take effect.

(b) *Method for determining the applicable Executive Order minimum wage for workers.* The minimum wage to be paid to workers, including workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c), in the performance of a covered contract shall be at least:

(1) $10.10 per hour beginning January 1, 2015; and

(2) An amount determined by the Secretary, beginning January 1, 2016, and annually thereafter. The applicable minimum wage determined for each calendar year by the Secretary shall be:

(i) Not less than the amount in effect on the date of such determination;

(ii) Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and

(iii) Rounded to the nearest multiple of $0.05. In calculating the annual percentage increase in the Consumer Price Index for purposes of this section, the Secretary shall compare such

Consumer Price Index for the most recent year available with the Consumer Price Index for the preceding year.

(c) *Relation to other laws.* Nothing in the Executive Order or this part shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under the Executive Order and this part.

§ 10.6 Antiretaliation.

It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or has testified or is about to testify in any such proceeding.

§ 10.7 Waiver of rights.

Workers cannot waive, nor may contractors induce workers to waive, their rights under Executive Order 13658 or this part.

Subpart B—Government Requirements

§ 10.11 Contracting agency requirements.

(a) *Contract clause.* For all contracts subject to Executive Order 13658, except for procurement contracts subject to the Federal Acquisition Regulation (FAR), the contracting agency shall include the Executive Order minimum wage contract clause set forth in appendix A of this part in all covered contracts and solicitations for such contracts, as described in § 10.3. The required contract clause directs, as a condition of payment, that all workers performing on covered contracts must be paid the applicable, currently effective minimum wage under Executive Order 13658 and § 10.5. For procurement contracts subject to the FAR, contracting agencies shall use the clause set forth in the FAR developed to implement this rule. Such clause shall accomplish the same purposes as the clause set forth in appendix A and shall be consistent with the requirements set forth in this rule.

(b) *Failure to include the contract clause.* Where the Department or the contracting agency discovers or determines, whether before or subsequent to a contract award, that a contracting agency made an erroneous determination that Executive Order 13658 or this part did not apply to a particular contract and/or failed to include the applicable contract clause in a contract to which the Executive Order applies, the contracting agency, on its own initiative or within 15 calendar days of notification by an authorized representative of the Department of Labor, shall incorporate the contract clause in the contract retroactive to commencement of performance under the contract through the exercise of any and all authority that may be needed.

(c) *Withholding.* A contracting officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under the covered contract or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by the Executive Order. In the event of failure to pay any covered workers all or part of the wages due under Executive Order 13658, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of Executive Order 13658 may be grounds for termination of the right to proceed with the contract work. In such event, the contracting agency may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(d) *Actions on complaints.* (1) *Reporting.* (i) *Reporting time frame.* The contracting agency shall forward all information listed in paragraph (d)(1)(ii) of this section to the Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210 within 14 calendar days of receipt of a complaint alleging contractor noncompliance with the Executive Order or this part or within 14 calendar days of being contacted by the Wage and Hour Division regarding any such complaint.

(ii) *Report contents.* The contracting agency shall forward to the Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210 any:

(A) Complaint of contractor noncompliance with Executive Order 13658 or this part;

(B) Available statements by the worker, contractor, or any other person regarding the alleged violation;

(C) Evidence that the Executive Order minimum wage contract clause was included in the contract;

(D) Information concerning known settlement negotiations between the parties, if applicable; and

(E) Any other relevant facts known to the contracting agency or other information requested by the Wage and Hour Division.

(2) [Reserved]

§ 10.12 Department of Labor requirements.

(a) *In general.* The Executive Order minimum wage applicable from January 1, 2015 through December 31, 2015 is $10.10 per hour. The Secretary will determine the applicable minimum wage rate to be paid to workers on covered contracts on an annual basis, beginning January 1, 2016.

(b) *Method for determining the applicable Executive Order minimum wage.* The Secretary will determine the applicable minimum wage under the Executive Order, beginning January 1, 2016, by using the methodology set forth in § 10.5(b).

(c) *Notice.* (1) The Administrator will notify the public of the applicable minimum wage rate to be paid to workers on covered contracts on an annual basis at least 90 days before any new minimum wage is to take effect.

(2) *Method of notification.* (i) **Federal Register.** The Administrator shall publish a notice in the **Federal Register** stating the applicable minimum wage rate to be paid to workers on covered contracts on an annual basis at least 90 days before any new minimum wage is to take effect.

(ii) *Wage Determinations OnLine Web site.* The Administrator shall publish and maintain on Wage Determinations OnLine (WDOL), at *http://www.wdol.gov,* or any successor site, the applicable minimum wage rate to be paid to workers on covered contracts.

(iii) *Other means as appropriate.* The Administrator may publish the applicable minimum wage rate to be paid to workers on covered contracts on an annual basis at least 90 days before any such new minimum wage is to take effect in any other media that the Administrator deems appropriate.

(d) *Notification to a contractor of the withholding of funds.* If the Administrator requests that a contracting agency withhold funds from a contractor pursuant to § 10.11(c), the Administrator, or contracting agency, shall notify the affected prime contractor of the Administrator's withholding request to the contracting agency.

Subpart C—Contractor Requirements

§ 10.21 Contract Clause.

(a) *Contract Clause.* The contractor, as a condition of payment, shall abide by

the terms of the applicable Executive Order minimum wage contract clause referred to in § 10.11(a).

(b) The contractor and any subcontractors shall include in any covered subcontracts the Executive Order minimum wage contract clause referred to in § 10.11(a) and shall require, as a condition of payment, that the subcontractor include the minimum wage contract clause in any lower-tier subcontracts. The prime contractor and any upper-tier contractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements, whether or not the contract clause was included in the subcontract.

§ 10.22 Rate of pay.

(a) *General.* The contractor must pay each worker performing on or in connection with a covered contract no less than the applicable Executive Order minimum wage for all time worked on or in connection with the covered contract. In determining whether a worker is performing within the scope of a covered contract, all workers who, on or after the date of award, are engaged in working on or in connection with the contract, either in performing the specific services called for by its terms or in performing other duties necessary to the performance of the contract, are this subject to the Executive Order and this part unless a specific exemption is applicable. Nothing in the Executive Order or these regulations shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under Executive Order 13658.

(b) *Workers who receive fringe benefits.* The contractor may not discharge any part of its minimum wage obligation under the Executive Order by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

(c) *Tipped employees.* The contractor may satisfy the wage payment obligation to a tipped employee under the Executive Order through a combination of an hourly cash wage and a credit based on tips received by such employee pursuant to the provisions in § 10.28.

§ 10.23 Deductions.

The contractor may make deductions that reduce a worker's wages below the Executive Order minimum wage rate only if such deduction qualifies as a:

(a) Deduction required by Federal, State, or local law, such as Federal or State withholding of income taxes;

(b) Deduction for payments made to third parties pursuant to court order;

(c) Deduction directed by a voluntary assignment of the worker or his or her authorized representative; or

(d) Deduction for the reasonable cost or fair value, as determined by the Administrator, of furnishing such worker with ''board, lodging, or other facilities,'' as defined in 29 U.S.C. 203(m) and part 531 of this title.

§ 10.24 Overtime payments.

(a) *General.* The Fair Labor Standards Act and the Contract Work Hours and Safety Standards Act require overtime payment of not less than one and one-half times the regular rate of pay or basic rate of pay for all hours worked over 40 hours in a workweek to covered workers. The regular rate of pay is generally determined by dividing the worker's total earnings in any workweek by the total number of hours actually worked by the worker in that workweek for which such compensation was paid.

(b) *Tipped employees.* When overtime is worked by tipped employees who are entitled to overtime pay under the Fair Labor Standards Act and/or the Contract Work Hours and Safety Standards Act, the employees' regular rate of pay includes both the cash wages paid by the employer (*see* §§ 10.22(a) and 10.28(a)(1)) and the amount of any tip credit taken (*see* § 10.28(a)(2)). (*See* part 778 of this title for a detailed discussion of overtime compensation under the Fair Labor Standards Act.) Any tips received by the employee in excess of the tip credit are not included in the regular rate.

§ 10.25 Frequency of pay.

Wage payments to workers shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under Executive Order 13658 may not be of any duration longer than semi-monthly.

§ 10.26 Records to be kept by contractors.

(a) The contractor and each subcontractor performing work subject to Executive Order 13658 shall make and maintain, for three years records containing the information specified in paragraphs (a)(1) through (4) of this section for each worker and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(1) Name, address, and social security number of each worker;

(2) The rate or rates of wages paid;

(3) The number of daily and weekly hours worked by each worker; and

(4) Any deductions made.

(b) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(c) Nothing in this part limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, or their implementing regulations.

§ 10.27 Anti-kickback.

All wages paid to workers performing on covered contracts must be paid free and clear and without subsequent deduction (except as set forth in § 10.23), rebate, or kickback on any account. Kickbacks directly or indirectly to the employer or to another person for the employer's benefit for the whole or part of the wage are prohibited.

§ 10.28 Tipped employees.

(a) *Payment of wages to tipped employees.* With respect to workers who are tipped employees as defined in § 10.2 and this section, the amount of wages paid to such employee by the employee's employer shall be equal to:

(1) An hourly cash wage of at least:

(i) $4.90 an hour beginning on January 1, 2015;

(ii) For each succeeding 1-year period until the hourly cash wage equals 70 percent of the wage in effect under section 2 of the Executive Order, the hourly cash wage applicable in the prior year, increased by the lesser of $0.95 or the amount necessary for the hourly cash wage to equal 70 percent of the wage in effect under section 2 of the Executive Order;

(iii) For each subsequent year, 70 percent of the wage in effect under section 2 of the Executive Order for such year rounded to the nearest multiple of $0.05; and

(2) An additional amount on account of the tips received by such employee (tip credit) which amount is equal to the difference between the hourly cash wage in paragraph (a)(1) of this section and the wage in effect under section 2 of the Executive Order. Where tipped employees do not receive a sufficient amount of tips in the workweek to equal the amount of the tip credit, the employer must increase the cash wage paid for the workweek under paragraph (a)(1) of this section so that the amount of the cash wage paid and the tips received by the employee equal the minimum wage under section 2 of the Executive Order.

(3) An employer may pay a higher cash wage than required by paragraph (a)(1) of this section and take a lower tip credit but may not pay a lower cash wage than required by paragraph (a)(1) of this section and take a greater tip credit. In order for the employer to claim a tip credit, the employer must demonstrate that the worker received at least the amount of the credit claimed in actual tips. If the worker received less than the claimed tip credit amount in tips during the workweek, the employer is required to pay the balance on the regular payday so that the worker receives the wage in effect under section 2 of the Executive Order with the defined combination of wages and tips.

(4) If the wage required to be paid under the Service Contract Act, 41 U.S.C. 6701 *et seq.,* or any other applicable law or regulation is higher than the wage required by section 2 of the Executive Order, the employer shall pay additional cash wages equal to the difference between the wage in effect under section 2 of the Executive Order and the highest wage required to be paid.

(b) *Tipped employees.* (1) In general, a covered worker employed in an occupation in which he or she receives tips is a ''tipped employee'' when he or she customarily and regularly receives more than $30 a month in tips. Only tips actually retained by the employee after any tip pooling may be counted in determining whether the person is a ''tipped employee'' and in applying the provisions of section 3 of the Executive Order. An employee may be a ''tipped employee'' regardless of whether the employee is employed full time or part time so long as the employee customarily and regularly receives more than $30 a month in tips. An employee who does not receive more than $30 a month in tips customarily and regularly is not a tipped employee for purposes of the Executive Order and must receive the full minimum wage in section 2 of the Executive Order without any credit for tips received under the provisions of section 3.

(2) *Dual Jobs.* In some situations an employee is employed in a tipped occupation and a non-tipped occupation (dual jobs), as for example, where a maintenance person in a hotel also works as a server. In such a situation if the employee customarily and regularly receives at least $30 a month in tips for the work as a server, the employee is a tipped employee only when working as a server. The tip credit can only be taken for the hours spent in the tipped occupation and no tip credit can be taken for the hours of employment in the non-tipped occupation. Such a situation is distinguishable from that of a tipped employee performing incidental duties that are related to the tipped occupation but that are not directed toward producing tips, for example when a server spends part of his or her time cleaning and setting tables, toasting bread, making coffee and occasionally washing dishes or glasses. Related duties may not comprise more than 20 percent of the hours worked in the tipped occupation in a workweek.

(c) *Characteristics of tips.* A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. It is to be distinguished from payment of a fixed charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer. Tips are the property of the employee whether or not the employer has taken a tip credit. The employer is prohibited from using an employee's tips, whether or not it has taken a tip credit, for any reason other than as a credit against its minimum wage obligations under the Executive Order to the employee, or in furtherance of a valid tip pool. An employer and employee cannot agree to waive the worker's right to retain his or her tips. Customers may present cash tips directly to the employee or may designate a tip amount to be added to their bill when paying with a credit card or by other electronic means. Special gifts in forms other than money or its equivalent such as theater tickets, passes, or merchandise, are not counted as tips received by the employee for purposes of determining wages paid under the Executive Order.

(d) *Service charges.* (1) A compulsory charge for service, such as 15 percent of the amount of the bill, imposed on a customer by an employer's establishment, is not a tip and, even if distributed by the employer to its workers, cannot be counted as a tip for purposes of determining if the worker is a tipped employee. Similarly, where negotiations between a hotel and a customer for banquet facilities include amounts for distribution to workers of the hotel, the amounts so distributed are not tips.

(2) As stated above, service charges and other similar sums are considered to be part of the employer's gross receipts and are not tips for the purposes of the Executive Order. Where such sums are distributed by the employer to its workers, however, they may be used in their entirety to satisfy the wage payment requirements of the Executive Order.

(e) *Tip pooling.* Where tipped employees share tips through a tip pool, only the amounts retained by the tipped employees after any redistribution through a tip pool are considered tips in applying the provisions of FLSA section 3(t) and the wage payment provisions of section 3 of the Executive Order. There is no maximum contribution percentage on valid mandatory tip pools, which can only include tipped employees. However, an employer must notify its employees of any required tip pool contribution amount, may only take a tip credit for the amount of tips each employee ultimately receives, and may not retain any of the employees' tips for any other purpose.

(f) *Notice.* An employer is not eligible to take the tip credit unless it has informed its tipped employees in advance of the employer's use of the tip credit. The employer must inform the tipped employee of the amount of the cash wage that is to be paid by the employer, which cannot be lower than the cash wage required by paragraph (a)(1) of this section; the additional amount by which the wages of the tipped employee will be considered increased on account of the tip credit claimed by the employer, which amount may not exceed the value of the tips actually received by the employee; that all tips received by the tipped employee must be retained by the employee except for a valid tip pooling arrangement limited to tipped employees; and that the tip credit shall not apply to any worker who has not been informed of these requirements in this section.

Subpart D—Enforcement

§ 10.41 Complaints.

(a) Any worker, contractor, labor organization, trade organization, contracting agency, or other person or entity that believes a violation of the Executive Order or this part has occurred may file a complaint with any office of the Wage and Hour Division. No particular form of complaint is required. A complaint may be filed orally or in writing. If the complainant is unable to file the complaint in English, the Wage and Hour Division will accept the complaint in any language.

(b) It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of any individual who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the individual's identity, shall not be disclosed in any manner to

anyone other than Federal officials without the prior consent of the individual. Disclosure of such statements shall be governed by the provisions of the Freedom of Information Act (5 U.S.C. 552, *see* 29 CFR part 70) and the Privacy Act of 1974 (5 U.S.C. 552a).

§ 10.42 Wage and Hour Division conciliation.

After receipt of a complaint, the Administrator may seek to resolve the matter through conciliation.

§ 10.43 Wage and Hour Division investigation.

The Administrator may investigate possible violations of the Executive Order or this part either as the result of a complaint or at any time on his or her own initiative. As part of the investigation, the Administrator may conduct interviews with the relevant contractor, as well as the contractor's workers at the worksite during normal work hours; inspect the relevant contractor's records (including contract documents and payrolls, if applicable); make copies and transcriptions of such records; and require the production of any documentary or other evidence the Administrator deems necessary to determine whether a violation, including conduct warranting imposition of debarment, has occurred. Federal agencies and contractors shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all aspects of investigations.

§ 10.44 Remedies and sanctions.

(a) *Unpaid wages.* When the Administrator determines a contractor has failed to pay the applicable Executive Order minimum wage to workers, the Administrator will notify the contractor and the applicable contracting agency of the unpaid wage violation and request the contractor to remedy the violation. If the contractor does not remedy the violation of the Executive Order or this part, the Administrator shall direct the contractor to pay all unpaid wages to the affected workers in the investigative findings letter it issues pursuant to § 10.51. The Administrator may additionally direct that payments due on the contract or any other contract between the contractor and the Government be withheld as necessary to pay unpaid wages. Upon the final order of the Secretary that unpaid wages are due, the Administrator may direct the relevant contracting agency to transfer the withheld funds to the Department of Labor for disbursement.

(b) *Antiretaliation.* When the Administrator determines that any person has discharged or in any other manner retaliated against any worker because such worker filed any complaint or instituted or caused to be instituted any proceeding under or related to the Executive Order or this part, or because such worker testified or is about to testify in any such proceeding, the Administrator may provide for any relief to the worker as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages.

(c) *Debarment.* Whenever a contractor is found by the Secretary of Labor to have disregarded its obligations under the Executive Order, or this part, such contractor and its responsible officers, and any firm, corporation, partnership, or association in which the contractor or responsible officers have an interest, shall be ineligible to be awarded any contract or subcontract subject to the Executive Order for a period of up to three years from the date of publication of the name of the contractor or responsible officer on the ineligible list. Neither an order for debarment of any contractor or its responsible officers from further Government contracts nor the inclusion of a contractor or its responsible officers on a published list of noncomplying contractors under this section shall be carried out without affording the contractor or responsible officers an opportunity for a hearing before an Administrative Law Judge.

(d) *Civil action to recover greater underpayments than those withheld.* If the payments withheld under § 10.11(c) are insufficient to reimburse all workers' lost wages, or if there are no payments to withhold, the Department, following a final order of the Secretary, may bring action against the contractor in any court of competent jurisdiction to recover the remaining amount of underpayments. The Department shall, to the extent possible, pay any sums it recovers in this manner directly to the underpaid workers. Any sum not paid to a worker because of inability to do so within three years shall be transferred into the Treasury of the United States as miscellaneous receipts.

(e) *Retroactive inclusion of contract clause.* If a contracting agency fails to include the applicable contract clause in a contract to which the Executive Order applies, the contracting agency, on its own initiative or within 15 calendar days of notification by an authorized representative of the Department of Labor, shall incorporate the contract clause in the contract retroactive to commencement of performance under the contract through the exercise of any and all authority that may be needed.

Subpart E—Administrative Proceedings

§ 10.51 Disputes concerning contractor compliance.

(a) This section sets forth the procedure for resolution of disputes of fact or law concerning a contractor's compliance with subpart C of this part. The procedures in this section may be initiated upon the Administrator's own motion or upon request of the contractor.

(b)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that relevant facts are at issue, the Administrator will notify the affected contractor(s) and the prime contractor (if different) of the investigative findings by certified mail to the last known address.

(2) A contractor desiring a hearing concerning the Administrator's investigative findings letter shall request such a hearing by letter postmarked within 30 calendar days of the date of the Administrator's letter. The request shall set forth those findings which are in dispute with respect to the violations and/or debarment, as appropriate, and explain how the findings are in dispute, including by making reference to any affirmative defenses.

(3) Upon receipt of a timely request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the investigative findings letter from the Administrator and response thereto, for designation to an Administrative Law Judge to conduct such hearings as may be necessary to resolve the disputed matters. The hearing shall be conducted in accordance with the procedures set forth in 29 CFR part 6.

(c)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that there are no relevant facts at issue, and where there is not at that time reasonable cause to institute debarment proceedings under § 10.52, the Administrator shall notify the contractor(s) of the investigation findings by certified mail to the last known address, and shall issue a ruling in the investigative findings letter on any issues of law known to be in dispute.

(2)(i) If the contractor disagrees with the factual findings of the Administrator or believes that there are relevant facts in dispute, the contractor shall so advise the Administrator by letter postmarked

within 30 calendar days of the date of the Administrator's letter. In the response, the contractor shall explain in detail the facts alleged to be in dispute and attach any supporting documentation.

(ii) Upon receipt of a response under paragraph (c)(2)(i) of this section alleging the existence of a factual dispute, the Administrator shall examine the information submitted. If the Administrator determines that there is a relevant issue of fact, the Administrator shall refer the case to the Chief Administrative Law Judge in accordance with paragraph (b)(3) of this section. If the Administrator determines that there is no relevant issue of fact, the Administrator shall so rule and advise the contractor accordingly.

(3) If the contractor desires review of the ruling issued by the Administrator under paragraph (c)(1) or (c)(2)(ii) of this section, the contractor shall file a petition for review thereof with the Administrative Review Board postmarked within 30 calendar days of the date of the ruling, with a copy thereof to the Administrator. The petition for review shall be filed in accordance with the procedures set forth in 29 CFR part 7.

(d) If a timely response to the Administrator's investigative findings letter is not made or a timely petition for review is not filed, the Administrator's investigative findings letter shall become the final order of the Secretary. If a timely response or petition for review is filed, the Administrator's letter shall be inoperative unless and until the decision is upheld by the Administrative Law Judge or the Administrative Review Board, or otherwise becomes a final order of the Secretary.

§ 10.52 Debarment proceedings.

(a) Whenever any contractor is found by the Secretary of Labor to have disregarded its obligations to workers or subcontractors under Executive Order 13658 or this part, such contractor and its responsible officers, and any firm, corporation, partnership, or association in which such contractor or responsible officers have an interest, shall be ineligible for a period of up to 3 years to receive any contracts or subcontracts subject to Executive Order 13658 from the date of publication of the name or names of the contractor or persons on the ineligible list.

(b)(1) Whenever the Administrator finds reasonable cause to believe that a contractor has committed a violation of Executive Order 13658 or this part which constitutes a disregard of its obligations to workers or subcontractors, the Administrator shall notify by certified mail to the last known address, the contractor and its responsible officers (and any firms, corporations, partnerships, or associations in which the contractor or responsible officers are known to have an interest), of the finding. The Administrator shall afford such contractor and any other parties notified an opportunity for a hearing as to whether debarment action should be taken under Executive Order 13658 or this part. The Administrator shall furnish to those notified a summary of the investigative findings. If the contractor or any other parties notified wish to request a hearing as to whether debarment action should be taken, such a request shall be made by letter to the Administrator postmarked within 30 calendar days of the date of the investigative findings letter from the Administrator, and shall set forth any findings which are in dispute and the reasons therefor, including any affirmative defenses to be raised. Upon receipt of such request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the investigative findings letter from the Administrator and the response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to determine the matters in dispute.

(2) Hearings under this section shall be conducted in accordance with the procedures set forth in 29 CFR part 6. If no hearing is requested within 30 calendar days of the letter from the Administrator, the Administrator's findings shall become the final order of the Secretary.

§ 10.53 Referral to Chief Administrative Law Judge; amendment of pleadings.

(a) Upon receipt of a timely request for a hearing under § 10.51 (where the Administrator has determined that relevant facts are in dispute) or § 10.52 (debarment), the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the investigative findings letter from the Administrator and response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to decide the disputed matters. A copy of the Order of Reference and attachments thereto shall be served upon the respondent. The investigative findings letter from the Administrator and response thereto shall be given the effect of a complaint and answer, respectively, for purposes of the administrative proceedings.

(b) At any time prior to the closing of the hearing record, the complaint (investigative findings letter) or answer (response) may be amended with the permission of the Administrative Law Judge and upon such terms as he/she may approve. For proceedings pursuant to § 10.51, such an amendment may include a statement that debarment action is warranted under § 10.52. Such amendments shall be allowed when justice and the presentation of the merits are served thereby, provided there is no prejudice to the objecting party's presentation on the merits. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. The presiding Administrative Law Judge may, upon reasonable notice and upon such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleadings and which are relevant to any of the issues involved. A continuance in the hearing may be granted or the record left open to enable the new allegations to be addressed.

§ 10.54 Consent findings and order.

(a) At any time prior to the receipt of evidence or, at the Administrative Law Judge's discretion prior to the issuance of the Administrative Law Judge's decision, the parties may enter into consent findings and an order disposing of the proceeding in whole or in part.

(b) Any agreement containing consent findings and an order disposing of a proceeding in whole or in part shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the Administrator's findings letter and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge and the Administrative Review Board regarding those matters which are the subject of the agreement; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) Within 30 calendar days after receipt of an agreement containing consent findings and an order disposing

of the disputed matter in whole, the Administrative Law Judge shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings and order. If such agreement disposes of only a part of the disputed matter, a hearing shall be conducted on the matters remaining in dispute.

§ 10.55 Proceedings of the Administrative Law Judge.

(a) The Office of Administrative Law Judges has jurisdiction to hear and decide appeals concerning questions of law and fact from the Administrator's investigative findings letters issued under §§ 10.51 and 10.52. Any party may, when requesting an appeal or during the pendency of a proceeding on appeal, timely move an Administrative Law Judge to consolidate a proceeding initiated hereunder with a proceeding initiated under the Service Contract Act or the Davis-Bacon Act.

(b) *Proposed findings of fact, conclusions, and order.* Within 20 calendar days of filing of the transcript of the testimony or such additional time as the Administrative Law Judge may allow, each party may file with the Administrative Law Judge proposed findings of fact, conclusions of law, and a proposed order, together with a supporting brief expressing the reasons for such proposals. Each party shall serve such proposals and brief on all other parties.

(c) *Decision.* (1) Within a reasonable period of time after the time allowed for filing of proposed findings of fact, conclusions of law, and order, or within 30 calendar days of receipt of an agreement containing consent findings and order disposing of the disputed matter in whole, the Administrative Law Judge shall issue a decision. The decision shall contain appropriate findings, conclusions, and an order, and be served upon all parties to the proceeding.

(2) If the respondent is found to have violated Executive Order 13658 or this part, and if the Administrator requested debarment, the Administrative Law Judge shall issue an order as to whether the respondent is to be subject to the ineligible list, including any findings that the contractor disregarded its obligations to workers or subcontractors under the Executive Order or this part.

(d) *Limit on Scope of Review.* The Equal Access to Justice Act, as amended, does not apply to proceedings under this part. Accordingly, Administrative Law Judges shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(e) *Orders.* If the Administrative Law Judge concludes a violation occurred, the final order shall mandate action to remedy the violation, including, but not limited to, monetary relief for unpaid wages. Where the Administrator has sought imposition of debarment, the Administrative Law Judge shall determine whether an order imposing debarment is appropriate.

(f) *Finality.* The Administrative Law Judge's decision shall become the final order of the Secretary, unless a timely petition for review is filed with the Administrative Review Board.

§ 10.56 Petition for review.

(a) Within 30 calendar days after the date of the decision of the Administrative Law Judge (or such additional time as is granted by the Administrative Review Board), any party aggrieved thereby who desires review thereof shall file a petition for review of the decision with supporting reasons. Such party shall transmit the petition in writing to the Administrative Review Board with a copy thereof to the Chief Administrative Law Judge. The petition shall refer to the specific findings of fact, conclusions of law, or order at issue. A petition concerning the decision on debarment shall also state the disregard of obligations to workers and/or subcontractors, or lack thereof, as appropriate. A party must serve the petition for review, and all briefs, on all parties and the Chief Administrative Law Judge. It must also timely serve copies of the petition and all briefs on the Administrator, Wage and Hour Division, and on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210.

(b) *Effect of filing.* If a party files a timely petition for review, the Administrative Law Judge's decision shall be inoperative unless and until the Administrative Review Board issues an order affirming the letter or decision, or the letter or decision otherwise becomes a final order of the Secretary. If a petition for review concerns only the imposition of debarment, however, the remainder of the decision shall be effective immediately. No judicial review shall be available unless a timely petition for review to the Administrative Review Board is first filed.

§ 10.57 Administrative Review Board proceedings.

(a) *Authority.* (1) *General.* The Administrative Review Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from investigative findings letters of the Administrator issued under § 10.51(c)(1) or (c)(2), Administrator's rulings issued under § 10.58, and decisions of Administrative Law Judges issued under § 10.55. In considering the matters within the scope of its jurisdiction, the Administrative Review Board shall act as the authorized representative of the Secretary and shall act fully and finally on behalf of the Secretary concerning such matters.

(2) *Limit on scope of review.* (i) The Board shall not have jurisdiction to pass on the validity of any provision of this part. The Board is an appellate body and shall decide cases properly before it on the basis of substantial evidence contained in the entire record before it. The Board shall not receive new evidence into the record.

(ii) The Equal Access to Justice Act, as amended, does not apply to proceedings under this part. Accordingly, the Administrative Review Board shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Decisions.* The Board's final decision shall be issued within a reasonable period of time following receipt of the petition for review and shall be served upon all parties by mail to the last known address and on the Chief Administrative Law Judge (in cases involving an appeal from an Administrative Law Judge's decision).

(c) *Orders.* If the Board concludes a violation occurred, the final order shall mandate action to remedy the violation, including, but not limited to, monetary relief for unpaid wages. Where the Administrator has sought imposition of debarment, the Board shall determine whether an order imposing debarment is appropriate.

(d) *Finality.* The decision of the Administrative Review Board shall become the final order of the Secretary.

§ 10.58 Administrator ruling.

(a) Questions regarding the application and interpretation of the rules contained in this part may be referred to the Administrator, who shall issue an appropriate ruling. Requests for such rulings should be addressed to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

(b) Any interested party may appeal to the Administrative Review Board for review of a final ruling of the Administrator issued under paragraph (a) of this section. The petition for review shall be filed with the

Administrative Review Board within 30 calendar days of the date of the ruling.

Appendix A to Part 10

For all contracts subject to Executive Order 13658, except for procurement contracts subject to the Federal Acquisition Regulation (FAR), the following clause shall be included by the contracting agency in every contract, contract-like instrument, and solicitation to which Executive Order 13658 applies:

(a) *Executive Order 13658.* This contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in this part pursuant to the Executive Order, and the following provisions.

(b) *Minimum Wages.* (1) Each worker (as defined in § 10.2) employed in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be $10.10 per hour through December 31, 2015. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the **Federal Register** no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on *www.wdol.gov* (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by § 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(c) *Withholding.* The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

(d) *Contract Suspension/Contract Termination/Contractor Debarment.* In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or this part, or a failure to comply with any other term or condition of Executive Order 13658 or this part, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in § 10.52.

(e) The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

(f) Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker.

(g) *Payroll Records.* (1) The contractor shall make and maintain for 3 years records containing the information specified in paragraphs (g)(1) (i) through (iv) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(i) Name, address, and social security number.

(ii) The rate or rates of wages paid.

(iii) The number of daily and weekly hours worked by each worker.

(iv) Any deductions made.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of this part and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

(h) The contractor (as defined in § 10.2) shall insert this clause in all of its subcontracts and shall require its subcontractors to include this clause in any lower-tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

(i) *Certification of Eligibility.* (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) *Tipped employees.* In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

(k) *Antiretaliation.* It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or this part, or has testified or is about to testify in any such proceeding.

(l) *Disputes concerning labor standards.* Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in this part. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

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